1995

Tenant's Handbook: Your Legal Right to Lead Safe Housing

Follow this and additional works at: http://digitalcommons.law.ggu.edu/eljc

Part of the Environmental Law Commons

Recommended Citation

http://digitalcommons.law.ggu.edu/eljc/5
TENANT'S HANDBOOK:
YOUR LEGAL RIGHT TO LEAD SAFE HOUSING

Prepared By:
Environmental Law and Justice Clinic
536 Mission Street
San Francisco, CA 94105-2968
Telephone: 415/ 442-6647  FAX: 415/ 442-6609

GOLDEN GATE UNIVERSITY
School of Law
ACKNOWLEDGEMENT

This Handbook was prepared with the assistance of the following student clinicians: David Briley, Kelly Charles, Alison Dixon, Arlene Lee, Ted Lieser, and Shelley Locke. Other authors contributing to this project are Karren Moore-Jordan and Claire Thorp.

Special thanks also goes out to all those who made this project possible.

DISCLAIMER

This Handbook is intended as advisory and informational guidance only. It is designed for tenants who are interested in their rights regarding lead safe housing. The information contained herein is not intended as legal advice per se, because the law can be interpreted differently depending upon the particular facts of each case.

While every precaution has been taken in preparation of this Handbook, the author and publisher assume no responsibility for errors or omissions. Neither is any liability assumed for damages resulting from the use of information contained herein.

Printed on Recycled Paper.
# TABLE OF CONTENTS

I. INTRODUCTION .................................................. 1

II. WHAT IS LEAD POISONING? ................................. 3
   Causes/Sources of Lead Poisoning .......................... 4
   Preventing Lead Poisoning .................................. 5

III. PRIVATE HOUSING AND THE LAW ......................... 8

   STATE LAW
      Property Law Theories
         The Warranty of Habitability .......................... 9
         Nuisance .............................................. 10
         Constructive Eviction ............................... 12
      Tort Law Remedies
         Strict Liability ...................................... 13
         Negligence .......................................... 16
         Failure to Disclose .................................. 19
         Unfair Competition ................................... 21

   LOCAL LAWS
      Local Authority to Abate Lead Hazards .................. 22

   FEDERAL LAWS
      Federal Law and Private Housing .......................... 25

IV. FEDERAL HOUSING AND THE LAW ......................... 27
   Federally Funded or Owned Housing ....................... 28
   Construction Regulations and Lead ....................... 29
   Dangerous Levels of Lead in Dust and Soil ................ 30
   Other Legal Approaches in Federal Housing ............... 30

V. FAMILY STATUS AND THE LAW ......................... 33
   Discrimination Based on Family Status ................... 33
   Discrimination Based on Marital Status ................... 35
   What You Can Do About Discrimination in Housing ....... 36

VI. YOUR RIGHT TO KNOW AND THE LAW ................... 38
   Proposition 65 ............................................. 38
   Discharge of Toxins into Drinking Water .................. 38
   Warnings of Exposure to Toxins ........................... 38
Proposition 65 Knowledge Requirement .......................... 39
Citizens Have A Right to Sue ................................. 39
Can Proposition 65 Help Apartment Renters? ............... 40

VII. ENFORCING YOUR LEGAL RIGHTS .......................... 43

VIII. QUESTIONS AND ANSWERS ................................. 47
Who Should I Call If There Might Be A Lead Hazard? .......... 47
What Can I Do To Prevent Lead Poisoning? ................... 47
Why Can’t I Remove the Paint Myself? ......................... 48
At What Age Should My Child Be Tested? ....................... 48
What Test Should My Child Have? ............................. 48
What Do The Blood Level Results Mean? ....................... 49
What If I Can’t Pay for A Blood Test? ......................... 49
How Can I Get Medi-Cal For My Child? ......................... 50
What If My Child Cannot Get Medi-Cal? ....................... 51
What To Do If Refused Housing Because I Have Children .... 51
Can I Be Evicted For Complaining About Lead? ............... 52
What Can I do If We Live in Public Housing? .................. 52
What Can Be Done If I Live in Section 8 Housing? .......... 53
Can I Withhold My Rent To Force Landlord to Clean Up? .... 53
Can the Costs of Removing Lead Be Passed Onto Me? ....... 54
Must I Be Warned If An Apartment Contains Lead? .......... 54

IX. HELP RESOURCES ............................................. 55
Federal/National Information .................................. 55
California State Information ................................. 56
Information By City and County .......................... 58
San Francisco ............................................. 58
Los Angeles & L.A. County ............................... 59
Southern California Cities ................................. 60
San Jose & Santa Clara .................................. 60
Berkeley, Oakland and Alameda ............................ 61
Sacramento .................................................. 62
Law Libraries .......................................................... 64

X. NOTES. ........................................................... 66
I. INTRODUCTION

Although lead poisoning has not received widespread attention, it remains a major health problem in this country. It is estimated that some 57 million homes in the United States contain lead-based paint. The statistics indicate 2.2 million of those homes are in California. Furthermore, approximately 1.8 million homes in the United States are believed to be occupied by children under age seven where lead dust or chips are readily produced. It is estimated that more than 580,000 California children under age six live in older housing likely to contain lead-based paint.

Lead can also be found in our tap water, the soil or the air in the form of dust contaminated with lead particles. The problem is most acute in older, poor, urban communities. As a result, a disproportionate number of minority children are poisoned by lead paint. According to a 1988 study, among households with incomes under $6,000 living in metropolitan areas of more than one million, 68% of African American children had elevated levels of lead in their blood compared to 36% of white children in those same communities.

This Handbook is part one of a three-part series of handbooks developed with the purpose of educating tenants, homeowners, landlords and lawmakers about the laws which directly and indirectly promote lead safe housing. The other two handbooks, Landlord’s Handbook and Lawmakers’ Handbook, will be available during the Fall of 1995 and will provide new and additional information on the legal issues around lead hazards.

In this Handbook, information on federal law, California law, and some local ordinances is provided which can be used to enforce your legal right to lead safe housing. In addition, there is basic information on what lead poisoning is, how lead poisoning is contracted, what to do if you suspect a lead hazard in your home, and what to do if someone in your family has been poisoned by a lead hazard.

The Tenant Handbook is divided into nine sections. In using the Handbook, we recommend the following: First - Read "What is Lead
dealing with the type of housing you live in. This section focuses on the laws that affect you and how these laws might be used to eliminate lead hazards in your home. Third - Read "Your Right to Know" which explains California’s Proposition 65 law and outlines a landlord's responsibility to inform tenants of lead hazards. Fourth - Read "Enforcing Your Legal Rights" to get an overview of how to make these various laws work for you. There is also a question and answer section which addresses specific questions about lead hazards and your legal rights. Finally, the Handbook provides a list of resources which you can turn to for more help.

Unfortunately, there are no easy solutions to this problem. In part this is because of the lack of uniformity among the states or even among cities within California on how to deal with lead hazards and their abatement. But the first step toward a solution is understanding the risks of lead poisoning and knowing your legal rights and obligations. This Handbook hopes to take you through that first step, informing you of the risks and what you can do about it now. The information contained in this handbook when used in conjunction with the information available from the HELP RESOURCES list at the end will help you to take care of yourself and your family. The questions and answers at the end allow you to quickly zero in on problems you may have with lead exposure.

**CORRECTION** - THE TOP OF PAGE 2 SHOULD READ AS FOLLOWS:

Poisoning?" which offers basic information on how lead poisoning occurs and steps you can take to protect your family. Second - Read the section dealing with the type of housing you live in.
II. WHAT IS LEAD POISONING?

Lead poisoning is a serious medical problem which can permanently affect physical and mental health. Although no one is immune to the harmful effects of lead, children are much more vulnerable than adults because their brain and major organs are in formative stages and can be permanently damaged. Lead poisoning can cause decreased intelligence, behavioral problems, decreased growth and hearing loss. Pregnant women are also in a high risk group. Mother and fetus share a common blood supply which means that the baby will be adversely affected by any lead in the mother’s bloodstream. Lead interferes with the normal development and well-being of the fetus.

Nationally, it is estimated that 57 million homes in the United States have lead based paint interior and exterior surfaces. The federal government estimates that 3 million children (17%) are at risk for lead poisoning. (See "Preventing Lead Poisoning in Young Children", Center for Disease Control Report, October 1991.) Some children may suffer from lead poisoning without having any noticeable symptoms. Others who are lead poisoned may appear to have the flu, or stomach problems, or even a learning disorder. The Center for Disease Control defines an elevated blood level (EBL) of lead as 10 micrograms per deciliter of whole blood (ug/dl). This level triggers the need for medical attention. The only certain way to know if your child has an elevated blood lead level (EBL) is to have a blood lead test performed.

There is no cure for lead poisoning and many doctors believe that the damage caused by lead is irreversible. A medical procedure known as chelation may be done to reduce an excessively high level of lead in the bloodstream to prevent convulsions, coma, or death. But even low lead levels which do not require chelation may cause mental retardation, behavior problems, kidney damage, impaired hearing, and other kinds of serious harm. For that reason, it is very important to find out if you and your family are living in an environment which contains lead hazards.
Causes/Sources of Lead Poisoning

Lead is a soft metal that is found in nature and is used in the manufacture of pipes, paint, gasoline, batteries and other products. The use of lead in paint for homes became illegal in 1978, and, in most states, gasoline is unleaded. However, since lead does not disappear over time, it is still commonly found in many environments where it was used years ago. In addition, lead is still used in many industrial settings. For instance, the paint used on bridges and ships still contains lead.

The possible sources of a lead hazard in your home are varied but the largest, most troublesome source is paint. Lead-based paint (paint containing up to 50% lead) was widely used in older homes and apartment buildings constructed prior to 1978. In 1978, the manufacture of paint containing more than 0.06% lead by weight was banned. But despite these efforts, lead-based paint remains the most common source of lead exposure. This is due to the fact that lead does not go away over time. Instead, tiny lead particles and dust are dispersed into the environment when this paint chips, flakes or is worn away over time or during renovation. As the paint deteriorates, lead dust is breathed into the lungs or ingested through the mouth during the normal hand to mouth behavior typical of young children, and accumulates in the bloodstream.

When children crawl and play on the floor, their hands and toys may become contaminated with lead dust. Since it is normal for infants and toddlers to explore their world by putting their hands and objects which they pick up into their mouths, they can easily ingest lead. Some small children may chew on toys, furniture, or window ledges. Even the tiniest lead particles which are swallowed are dangerous because it only takes a very small amount of lead-based paint to hurt a child.

The exterior paint used on homes is usually much higher in lead content and thus more dangerous when it becomes accessible to the interior at window sills. Another source of lead is the weathering of exterior paint which may cause lead to build up in the soil around an older building. Fruits and vegetables grown in this soil may not be safe to eat. The soil near roads, highways, and garages may also contain high lead levels due to years of absorbing gasoline exhaust emissions. An area
which was a factory site will remain contaminated for many years after
the factory is demolished and housing and parks have taken its place.
Again, lead does not go away over time but remains in the soil.

Although now prohibited, lead pipes were once commonly used for
plumbing fixtures. If your indoor pipes or your city’s water lines are
made of this soft metal, your drinking water may be contaminated with
lead. The metal leaches into the water supply from lead pipes or soldered
plumbing joints or faucets. Also kitchen faucets may leach small amounts
of lead into drinking water, especially when the faucets are new.

Certain types of pottery, ceramics and canned goods containers may
be a source of lead, particularly imported items. Certain crystal also poses
a lead hazard such as wine glasses or decanters, especially when they are
used with alcohol. These items can contaminate the food you eat with
lead. To be safe, you should check with sellers or manufacturers of these
items before using them.

Various home remedies and some cosmetics can also cause lead
poisoning. Kohl, a cosmetic used by women to line their eyes and the
eyes of their children is a source of lead. The following home remedies
contain lead and SHOULD NOT BE USED: Azarcon (also known as
Rueda, Coral, Maria Luisa, Alarcon, and Liga), Greta, Pay-loo-ah,
Ghasard, Bala Goli, and Kandu.

Finally, lead particles and dust are often brought into the home
through various work related activities. Workers in battery factories, auto
repair shops, construction and demolition, and those who do welding or
painting carry lead dust into the home on their clothes, shoes, and bodies.
Car batteries in your home or in the yard where children have access are
also dangerous sources of lead.

Preventing Lead Poisoning

There are temporary measures you can take to help protect yourself
and your family from lead poisoning. Floors, window ledges, and any
painted surfaces that a child may touch or chew on should be washed
once a week with a solution of powdered automatic dishwasher detergent
(or other high phosphate cleaner or lead specific detergent) and warm water using a wet cleaning rag. If your child is known to chew on window ledges, taping the window ledge with masking tape where the child chews can prevent lead ingestion. This will not eliminate the problem but it will reduce the risk of breathing in lead dust or ingesting paint chips. Inexpensive, easy to use lead testing kits are also available to test the paint on walls, toys, furniture or other surfaces at local hardware stores.

Wash your child’s hands often, especially before eating and sleeping. Feed children well-balanced meals that include fruits, and vegetables and foods rich in calcium and iron. Avoid fatty foods. Good nutrition can help reduce lead absorption and retention. As another precaution, wash your hands and your children’s hands often during the day.

Sweeping and ordinary vacuuming will do more harm than good because these methods disperse fine lead dust throughout the air you breathe. Always use a wet mop to clean instead of a broom or ordinary vacuum cleaner. That mop should be used only for the purpose of cleaning lead dust, since it may continue to carry lead dust even after it is rinsed out. When doing other work around your home, do not dry scrape, sand, waterblast or flame torch lead-based paint. These methods can generate high volumes of lead dust.

People who work in lead-related jobs should shower and change their clothes before entering their homes. Work shoes should be left outside the house and work clothing laundered separately.

You can test the plumbing in your apartment to see if it is made of lead. Look at the pipes: are they shiny or dull? Lead pipes have a dull gray color (safe pipes have a shiny silver color) and are easily scratched with any sharp object. Now, place a small magnet on the pipes carrying water to your kitchen and bathroom sinks. If the magnet sticks and holds, your pipes are not made of lead. Sometimes even though the pipes are not lead, the joints were soldered together with lead. Different colored seams on pipes indicate the presence of lead which can also leach into the water. Even if your indoor plumbing is not made of lead, you may still
want to have your water tested since the city and/or service lines may be made of lead.

As water sits in lead pipes, it will leach out the lead. Always let the water run for a few seconds before using it; 60 seconds is ideal. It is especially important to do this first thing in the morning after water has been sitting in the pipes all through the night, particularly if the water is used for making baby formula. Only cold water should be used for cooking and drinking. Hot water causes more lead to leach from the pipes than cold water.

There are simple methods which will allow you to determine whether any of the dishes you use to serve food can cause lead poisoning. Picture brochures which illustrate ceramics and pottery that may be dangerous to use are available by calling the California Department of Health Services, Food and Drug Branch. It is illegal to sell such tableware in California without a warning label. (The standards for tableware sold in California can be found in the California Health and Safety Code sections 25885 and 25886.) LeadSwab Test Kits which are simple to use are available at local pharmacies, hardware and home supply stores and also by mail order. When you buy canned goods, avoid cans which have wide, uneven seams. These seams may indicate the presence of lead in the can. Never store food in cans. Keep leftovers in glass or plastic containers.

Don’t wait for someone in your home to become sick. If you live in older housing, or garden in an urban area, or have lead pipes, get your child tested for lead poisoning. The HELP RESOURCES list at the back of this handbook tells you where to call for more information about preventing lead poisoning and getting help if you think you are living with a lead hazard.
III. PRIVATE HOUSING AND THE LAW

Until recently, most people learned that there was a lead hazard in their home only after a child became sick. If you or someone in your family becomes ill due to lead poisoning caused by an unsafe condition in your home, you may be entitled to compensation from your landlord for those injuries and other costs such as medical expenses or moving costs. You may also be able to have your landlord correct the problem and reduce the lead risk in your home. A landlord who understands his or her legal obligations and is responsible may be willing to resolve matters amicably. Landlords are often more willing to respond to problems if requests come from a group of tenants who are organized and have community as well as legal support.

Using one of the legal theories discussed below, you may be able to convince your landlord to resolve your lead problem. If you need to file a lawsuit, it is likely you will need legal assistance because filing a lawsuit against a landlord in a case like this would be time consuming and very complicated. Also, if you decide to bring a lawsuit, there will be certain time requirements for filing. For these reasons, it will be important to talk to an attorney promptly so that you do not lose your right to sue. Call one of the referral services listed at the end, explain your circumstances, and ask for their assistance in finding legal help. Don’t give up after placing one call. You may have to be persistent to find the right attorney. Bear in mind, however, that lawsuits are risky and that a tenant’s right to abate lead hazards in some cases are not well established.

Every person who rents a place to live in California has the right to safe housing. If your house is not "lead safe," the law can help you request that your landlord to make it safe for you and your children. While there is no uniform standard for safe or allowable amounts of lead in existing painted surfaces, some guidelines have been developed. Federal and state governments use values ranging from 0.7 to 1.2 milligrams per centimeter squared (or 0.7 - 1.2 mg/cm²) of wall when lead is measured using a portable x-ray fluorescence analyzer. Another standard used states that 0.5% lead by weight when tested using laboratory
analysis is unsafe. (See "Preventing Lead Poisoning in Young Children" by the Center for Disease Control, October 1991.)

This section will explain the laws which make safe housing a right and describe how you can use them to either a) request that your landlord eliminate the lead hazards in your home or/and b) require your landlord to pay for medical costs and pain and suffering you incurred when a family member contracted lead poisoning in your home.

The first three legal theories (warranty of habitability, nuisance, constructive eviction) work best in lawsuits to eliminate lead hazards in your home. The following three theories (strict liability, negligence, failure to disclose) work best when someone has been injured by a lead hazard in the home. It is important to note that none of these theories is guaranteed to work and engaging in a lawsuit can be a lengthy and complicated matter with significant risk. A lawsuit can be very stressful and can have many emotional as well as financial costs. A landlord may even argue that the parents of the lead poisoned children were negligent themselves in allowing their children to eat lead-based paint. (See Ankiewicz v. Kinder, 408 Mass. 792 (1990).) Such arguments in an open courtroom can only add to the sense of guilt a parent may already feel. You should weigh all of the consequences before deciding to engage in such action and consider non-litigation alternatives including negotiation, mediation and tenant organizing.

PROPERTY LAW THEORIES

The Warranty Of Habitability

California law says that your landlord has a duty to put rental property in a safe condition and keep it in a condition fit for living. (See California Civil Code section 1941) This means that in return for the rent you pay every month, your landlord has a legal duty to repair all damages or problems which make the apartment unlivable. Even without the state law, caselaw has also developed a warranty of habitability which is implied in every residential rental agreement and can not be waived or bargained away. (Green v. Superior Court, 10 Cal. 3d 616 (1974). While
it is fairly simple and straightforward to get a manufacturer to honor the warranty on your television, it may not be as simple to get your landlord to fix your lead problem. Fortunately, unlike the warranty on your TV which may last only a year or two, the warranty of habitability lasts for as long as you’re paying rent for your home.

Under California Civil Code section 1941 landlords are required by law to meet minimum standards when renting or leasing a house or apartment. Once rented, they have a duty to maintain the unit in a safe and sanitary condition. Specific conditions that must be maintained are listed in the statute. Lead hazards are not specifically listed in section 1941. On the other hand, the courts have not ruled out a landlord’s potential liability for maintaining a non-listed hazard, like lead, on his or her property. (Green v. Superior Court, 10 Cal. 3d 616 (1974)).

If the repairs are not made within a reasonable time, state law provides tenants with an immediate remedy. This is often called the "repair and deduct" provision, and it can be found in California Civil Code section 1942. Under this section a tenant has the right to demand that his or her landlord make repairs to any problems which make the apartment unhabitable; if the landlord fails to do so, the tenant can make the repairs him or herself and deduct the repairs from the rent so long as the cost of the repairs does not exceed one month’s rent.

Based upon similar laws in other states, courts have ruled that the warranty of habitability applies to lead. See Housing Authority v. Olesen, 624 A.2d 920 (Conn. App. Ct. 1993); Haddad v. Gonzalez, 576 N.E.2d 658 (Mass. 1991). We believe it is likely but not guaranteed that California courts will take the same approach.

Nuisance

California Civil Code section 3479 defines a nuisance as "[anything] which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property." Furthermore, section 731 of the California Civil Code authorizes any person to file a lawsuit whose
property has been injured or whose enjoyment of the property has been reduced by a nuisance.

The definition of nuisance "has meant all things to all men, and has been applied indiscriminately to everything from an alarming advertisement to a cockroach baked in a pie." (Prosser, Law of Torts (4th ed. 1971) section 86.) In other words, a nuisance can be anything that makes it difficult or impossible to enjoy your apartment. Therefore, loud music played nightly by a neighbor could be a nuisance if it disturbs your ability to enjoy your home. Because the statutory definition of what constitutes a nuisance is so broad, it may encompass the existence of lead-based paint or lead contaminated water in an apartment if the existence of the lead hazard interferes with the enjoyment or use of the apartment.

In practice, California courts have carved out at least six types of interference which can rise to the level of nuisance. They are physical interference with land\(^1\), interference with the present enjoyment of land\(^2\), danger of future injury\(^3\), mental and emotional disturbance\(^4\), exhibition of obscene matter\(^5\), and nuisances *per se*\(^6\).

Courts have also found that a nuisance exists when a tenant’s health is endangered due to substandard housing. ([Smith v. David, 120 Cal. App. 3d 101 (1981)](http://example.com)) Maintaining a nuisance violates California Health &

\[\text{\textsuperscript{1}}\quad \text{For example, a neighboring building or fence that crosses the property line.}\]

\[\text{\textsuperscript{2}}\quad \text{For example, the spread of dust, smoke, or odors from a neighboring property.}\]

\[\text{\textsuperscript{3}}\quad \text{For example, a dilapidated housing unit being used to store combustible debris.}\]

\[\text{\textsuperscript{4}}\quad \text{For example, establishment of a mortuary and funeral parlor in a residential neighborhood.}\]

\[\text{\textsuperscript{5}}\quad \text{For example, an adult bookstore.}\]

\[\text{\textsuperscript{6}}\quad \text{Any activity declared by law to be a nuisance. For example prostitution.}\]
Safety Code section 17920.3 and is another legal basis for requesting your landlord to correct a problem and pay monetary damages for resulting personal injuries. (Code section 17920.3 spells out several conditions which amount to substandard housing. See section on Local Authority to Abate Lead Hazards below.) Although, no appellate court in California has found that lead is a nuisance, it is possible to argue that the presence of lead-based paint substantially interferes with a tenant’s right to enjoy and use an apartment.

In Acadia, California, Ltd., v. Herbert, 54 Cal. 2d 328 (1960) the court stated that even though the tenant may not have suffered physical injury, he can recover damages for the discomfort and annoyance he suffered as a result of his fear for the safety of himself and his family when it is caused by a nuisance. Therefore, under this theory, a tenant could possibly recover damages due to the fear of contracting lead poisoning. Similar to cases seeking damages for a fear of contracting cancer, the probability of actually contracting lead poisoning would be a key factor in a case based on a fear of lead poisoning.

In addition, California Civil Code section 3483 states that "every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefore in the same manner as the one who first created it." Under the theory of continuing nuisance, it therefore does not matter that the current landlord was not the person who put the lead paint onto the walls of the apartment or installed the lead pipes. The present owner is liable for having allowed the lead to remain in the apartment, thus continuing the nuisance.

Constructive Eviction

Constructive eviction occurs when your landlord has not actually evicted you or ordered you to leave the apartment, but due to the physical conditions in the apartment, the apartment is unlivable and you have no choice but to leave. To establish a cause of action for constructive eviction, the tenant must show that due to the acts or omissions of the landlord, the apartment, or a substantial portion of it, has been rendered unfit for the normal purposes for which the apartment was leased. (Groh
In addition to the actions or omissions of the landlord, the tenant must have left the premises within a reasonable period of time after the wrongful act of the landlord. In Stoiber v. Honeychuck, the apartment was ordered to be vacated by the County Health Department due to numerous housing code violations. The court stated that this was enough to establish a cause of action for constructive eviction.

Applying this legal theory to a lead case, it is possible for a tenant with small children to argue that the presence of lead-based paint in the apartment and the landlord’s refusal to correct the situation makes it necessary for the tenant to leave the apartment, thus being constructively evicted.

**TORT LAW THEORIES**

A landlord’s liability for the lead poisoning of a child has been increasingly litigated in recent years. In addition to landlord-tenant theories of liability founded in property law described above, many plaintiffs are also trying to invoke liability through tort principles (principles of civil law designed to correct a wrong). The major theories have included negligence, breach of the duty to disclose, and strict liability. Though California law on this subject is still in its infancy, other states have established by statute and through case law the standard for a landlord’s liability. Massachusetts, Connecticut and Maryland are among the leaders in states passing comprehensive lead abatement statutes and establishing landlord tort liability for lead poisoning. These states serve as instructive examples of how this type of liability may develop in California.

**Strict Liability**

For reasons of public policy, the law holds certain wrongdoers strictly liable for their actions regardless of whether the wrongdoer knew of the danger or should have known of it. Of all the tort theories available, strict liability is the most favored since the plaintiff has less to prove in order to win his or her case. Therefore, in a strict liability case a
plaintiff would only have to show that the situation or product was dangerous and that it caused his or her damages. The purpose of strict liability is to insure that the costs of injuries resulting from defective products or dangerous situations are borne by those who stand to profit from these products and who are in a position to prevent the injury rather than by the innocent victim.

In Greenman v. Yuba Power Products, Inc., the court ruled that a manufacturer is strictly liable when he places a product on the market and it proves to have a defect that causes personal injury, provided the manufacturer knew the product would be used without inspection for defects. (Greenman v. Yuba Power Products, Inc., 59 Cal. 2d 57, 62 (1963).) This rule has been extended to cover not only manufacturers but retailers (Vandermark v. Ford Motor Co., 61 Cal. 2d 256 (1964)), and others (Price v. Shell Oil Company, 2 Cal. 3d 245 (1970)).

The theory of strict liability has also been applied to landlord-tenant situations. In Golden v. Conway, involving a defective wall heater, the court stated that when a landlord is engaged in the business of leasing apartments and provides an appliance without knowing whether or not it is defective, the landlord is strictly liable for injuries if it proves to be defective when used in a normal manner. (Golden v. Conway, 55 Cal. App. 3d 948, 961-62 (1976).)

In Becker v. IRM Corp., the tenant was injured when he slipped and fell against a frosted glass shower door made of untempered glass. Prior to the accident, the landlord did not know that the shower door was not made of safety glass. Indeed, an inspection of the shower door did not show any visible difference between tempered and untempered glass. Thus, the danger of the shower door was found to be a hidden defect. The court in Becker held that the landlord was strictly liable for the tenant's injuries resulting from this hidden defect which existed at the time the tenant rented the apartment. (Becker v. IRM Corp., 38 Cal. 3d 454, 464 (1985).) In addition, the court stated that it did not matter that the current landlord was not the owner when the shower door was installed. (Becker v. IRM Corp., 38 Cal. 3d at 467; Greenman v. Yuba Power Products, Inc., 59 Cal. 2d at 63.)
Massachusetts and Connecticut have passed statutes specifically providing for strict liability for lead poisoning. Thus, legislative action rather than the development of caselaw has made strict liability a viable legal theory for tenants. As a result, landlords in these states are held strictly liable for injuries a child sustains due to lead poisoning. While some states have rejected this theory for lawsuits involving lead hazards, it is not known what the California legislature will do in this area. Efforts are currently underway to try and develop a statewide lead abatement law. The experience of other states such as Massachusetts and Connecticut may be useful in developing California law in this area, but remember the following theories have not been adopted in California yet.

Massachusetts statutory law requires the owner of residential property to remove or cover lead-based paint, plaster, soil or other material so as to make it inaccessible to children under six years of age whenever such a child resides in the premises. (Mass. Gen. Stat. Ann. ch. 111, section 197). Under section 199 of Massachusetts General Law Code, "the owner of any residential property shall be liable for all damages caused by his failure to perform the duties required of him pursuant to... section one hundred and ninety-seven." The Massachusetts courts have interpreted these statutes as imposing strict liability on landlords. In other words, the landlord is liable if the tenant proves the landlord failed to comply with the statutory requirements for the removal of lead-based hazards. Additionally, a landlord may be liable regardless of whether he or she knew there were materials containing dangerous levels of lead on the premises or whether the landlord was negligent in not removing the materials. (Bencosme v. Kokoras, 507 N.E.2d 748 (Mass. 1987).) In other words, neither negligence nor knowledge of the presence of the risk are necessary elements to establish liability under Massachusetts law.

This Massachusetts law specifically provides that the owner of any premises is strictly liable for all damages to a child under age six which are caused by the failure to comply with the requirements of lead abatement or interim control. (Mass. General Law Code 111, section 199.) In addition, even where an owner has fully abated the premises of lead paint or controlled the lead paint and received a letter of compliance
or letter of interim control, the owner may still be liable for injuries under a negligence standard. (Id.)

Connecticut has also created statutory law to hold landlords strictly liable for lead paint poisoning of a child. Connecticut General Statutes section 47a-7 states that a landlord must make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition. Section 47a-8 further states that the presence of paint which does not conform to federal standards under the Lead Based Paint Poisoning Prevention Act is a violation of section 47a-7. In Gore v. People's Sav. Bank, the court concluded that the statute did not require the landlord to have notice of the lead-based paint defect in order to be liable for damages. The statutes merely required proof that the property was not fit and habitable and that violation caused the plaintiff's injuries. (Gore v. People's Sav. Bank, 644 A.2d 945 (Conn. App. Ct. 1994); petition for certification of appeal granted in Gore v. People's Sav. Bank, 231 Conn. 923 (1994).)

In an earlier Connecticut case, the court held the landlords strictly liable for failing to keep the property free of lead paint hazards and for renting the apartment when they should have known that lead paint was present. (Hardy v. Griffin, 569 A.2d 49 (Conn.Super.Ct. 1989).) Though liability in this case was based on the violation of a local ordinance rather than the state law, it is clear that under Connecticut law a landlord may be held strictly liable for injuries caused by lead-based paint hazards.

**Negligence**

A more commonly used theory to establish landlord liability is negligence. Negligence is the breach of a duty owed to the tenant which causes injury. Under California law, everyone is responsible for the results of his or her intentional acts. In addition, an individual is responsible for another's injuries caused by acting without reasonable care; in other words, by acting negligently. The exception to this rule occurs when the victim willfully or by lack of ordinary care brought the injury upon himself. (Cal. Civil Code section 1714) This duty has been interpreted to mean that a landlord must act towards his tenant as a reasonable person would under all the circumstances. Because all the
circumstances must be taken into consideration, a court will consider the foreseeability of the harm, the likelihood of injury, the seriousness of such injury, the burden and expense of reducing or avoiding the risk, and the landlord’s degree of control over the risk-creating defect before determining liability. (Rowland v. Christian, 69 Cal. 2d 108, 113 (1968); Brennan v. Cockrell Investments, Inc., 35 Cal. App.3d 796, 800-801 (1973).)

This duty of reasonable care applies in many different circumstances. For example, in Brennan v. Cockrell Investments, Inc., a tenant sued his landlord for injuries sustained when the back stairway railing broke and he fell. In Golden v. Conway, 55 Cal. App. 3d 948 (1976), a landlord was found liable for an apartment fire that started near a wall heater which was installed improperly. In Evans v. Thomason, 72 Cal. App. 3d 978 (1977), liability was found for a defective kitchen outlet where the landlords knew of the defect.

The duty of care owed to minor children is higher than the duty owed to an adult. This greater degree of care is due to the fact that children lack the capacity to appreciate risks and to avoid danger. (Casas v. Maulhardt Buick, Inc., 258 Cal. App. 2d 692 (1968); McDaniel v. Sunset Manor Co., 220 Cal. App. 3d 1 (1990).) This higher duty to children also applies to landlords who rent to families with children, in order to protect the children from certain dangers. (Copfer v. Golden, 135 Cal. App. 2d 623 (1955).) In addition to the circumstances mentioned above, the natural tendency of children to get into everything must also be taken into account by the court when determining the standard of care owed to a child. (McDaniel at 10.) By taking all these things into consideration the court is able to determine whether the defendant’s conduct was reasonable or not.

In January 1995, the jury in a Los Angeles County Superior Court action found the landlords negligent and strictly liable for injuries the tenants’ three-year old suffered due to elevated levels of lead in her blood. (Morales v. Quan, No. KC 013694, California Superior Court, Los Angeles County, Pomona) In this case, local health officials were notified of the child’s elevated lead levels. They inspected the property and found lead paint around a door and window. The landlords were ordered to
abate those lead hazards, and they did. However, the child’s lead levels continued to be elevated indicating other areas of lead hazards in need of abatement. The landlords were found liable even though they testified to having no knowledge of the lead-based paint hazards and they abated the lead hazards once they were notified of them by local health officials.

The jury’s verdict was based on strict liability theory which treated the lead hazards as a hidden defect in the apartment. The jury also found the landlords were negligent in their failure to properly inspect the property for lead based hazards. The jury awarded the tenants $150,000 in damages.

Unfortunately, the case is not over. The jury’s verdict was overturned by the trial court judge and the case will be retried because of insufficient evidence. The landlords successfully argued that the tenants did not prove how the lead poisoning occurred (i.e. eating paint chips) nor how the child was injured (i.e. irreversible brain damage). As a result, the tenants did not carry their burden and establish causation and damages. The case illustrates the difficult questions of proof that can arise in lead poisoning cases.

In addition to the problems of proof, another difficulty in lead-based paint cases using a negligence theory is the plaintiff’s burden to show that the landlord had actual notice or should have known of the lead hazard (known as constructive notice or knowledge). Cases in other states such as New York and Ohio have made clear that a landlord will not be held liable for personal injuries resulting from lead hazards unless the landlord had either actual or constructive notice of the lead hazard. In both Brown and Winston, the landlords prevailed because the court found no evidence that the landlords either knew of the lead hazard or should have known of the hazard by virtue of other information. (See Brown v. Marathon Realty, Inc., 170 A.2d 426, 565 N.Y.S.2d 219 (1991) and Winston Properties v. Sanders, 565 NE.2d 1280, 57 Ohio App.3d 28 (1989).)

Maryland courts also require proof that the landlord had either actual or constructive notice of the lead hazard before imposing liability. For example, in Hayes v. Hambruch, 841 F. Supp. 706 (D.Md 1994) the court held that the landlord could not be held liable for injuries stemming
from a lead hazard in the apartment unless the landlord knew or had reason to know of the hazard. However, the court concluded that the landlord’s actual or constructive knowledge that the paint chips contained a toxic substance, such as lead, combined with the knowledge that a child may ingest those paint chips, created a duty to remedy the hazard. (*Hayes v. Hambruch*, 841 F. Supp. at 711.)

In a footnote, the court stated that it was not unreasonable that the landlord did not know of the dangers from paint at the time the poisoning occurred. However, the court went on to say that the outcome of that particular case might have been different if the plaintiffs had shown that the potential for lead poisoning was a danger that landlords should have been aware of. (*Hayes* at 711.) Currently, most state courts do not hold that the dangers of lead-based paint are so common and generally known to the public that landlords should know a lead paint hazard exists in their buildings. But the statement by the *Hayes* court combined with new national attention on lead-based paint hazards may pave the way for more cases based on constructive notice.

**Failure To Disclose**

A landlord may also be responsible under the law for failing to disclose the existence of a hidden defect. A hidden defect is a defect that is not readily apparent on its face and is therefore concealed. For example, a floor that looks perfectly fine but is in reality supported by damaged beams would be a hidden defect because looking at the floor does not indicate anything is wrong. Similarly, looking at the paint on a wall or water from the tap does not reveal a lead hazard. Even if a hazard is visible in some respects, but it’s true danger is not clearly visible, that is still a hidden defect.

In *Shotwell v. Bloom*, 60 Cal. App. 2d 303 (1943), a crack in the fireplace was visible but the hazard of using the fireplace and thereby causing a fire was not. The court held that the hazard was a latent (hidden) danger even though the defect, the crack, was visible. In *Merrill v. Buck*, 58 Cal. 2d 552 (1962) the door to the basement was visible, but the hazard of the steep basement stairs behind the door and the lack of a landing were hidden. Therefore, under this theory if there is some hidden
defect in the premises which is known to the landlord at the time the lease is made, the danger of which is not apparent to the tenant, the landlord is under a duty to inform the tenant of the danger. If the landlord fails to warn of this danger, he is liable for injuries to the tenant arising from the defect. (Merrill at 557; Shotwell at 309-310.)

It should be noted that some states have held that this rule does not extend to defects (such as the presence of lead paint) that the landlord should have known about, rather it applies to those defects the landlord actually knew about. Underwood v. Risman, 605 N.E.2d 832 (Mass. 1993) is an example of this distinction in proof. In Underwood, the tenants were a childless couple at the time the premises were first rented. They later had a child who subsequently became lead poisoned. The tenants brought a failure to disclose lawsuit because they could not sue under the Massachusetts lead statute. The trial court held that the landlord had a duty to disclose because the landlord was experienced in real estate, knew the dangers of lead paint, and knew that older housing was more likely to contain lead paint. In essence, the trial court applied a negligence standard, i.e. that the landlord should have known lead paint might be present in the apartment. The Supreme Judicial Court of Massachusetts overturned a judgment for $2.2 million against the landlord. That court found that the landlord could not be liable for failure to disclose when he did not have actual notice of the presence of lead paint.

Liability under the theory of failure to disclose does not cover all injuries. It includes only those injuries that might be reasonably foreseen. In the case of lead paint chips being eaten by children, courts have held that the nature of children is such that it should be foreseeable that they would put things into their mouths. (Hayes v. Hambruch, 841 F. Supp. 706, 711 (1994); Norwood v. Lazarus, 634 S.W.2d 584, 587 (Mo. Ct. of App. 1982).) This knowledge in itself however, is not enough to establish as a matter of law that lead poisoning via the eating of paint chips, is a foreseeable injury. However, when knowledge that the paint chips contain a toxic substance such as lead is combined with the knowledge, actual or constructive, that a child may eat those paint chips, a duty is created. (Hayes v. Hambruch, 841 F. Supp at 711.)
California has not dealt with the propensity of children to put things into their mouths in the context of lead-based paint poisoning. But it has recognized that a higher duty is owed to children and the scope of foreseeable risks to children must take into consideration the known propensity of children to get into things. (McDaniel v. Sunset Mannor Co., 220 Cal. App. 3d 1, 7 (1990).)

In addition to the caselaw above, under California statutory law, sellers of property are required to disclose any defects or hazards which they know of that exist on the property before the property is transferred to the buyer. (California Civil Code section 1102 et seq.) According to Section 1102.6, which outlines the form and content of that disclosure statement, sellers are specifically required to disclose whether or not they know of any substances or materials which may be an environmental hazard such as lead-based paint. They are also required to disclose any nuisances.

While this law only directly applies to the sellers and buyers of residential property and not to tenants, a tenant may be able to take advantage of the statute. For example, a tenant who is considering the rental of an apartment or house could ask the owner if the property was recently acquired through a sale. If so, the tenant could request to see a copy of the disclosure statement the owner should have received before he or she bought the property. This information could then assist a tenant in determining if the property is lead safe. Furthermore, this information could potentially be used to satisfy the notice requirement in a negligence or failure to disclose lawsuit.

Unfair Competition

The Business and Professions Code of California, section 17200 prohibits businesses from conducting any unfair, unlawful or fraudulent business act or practice. The statute is intended to protect consumers from any unlawful business act or practice. Landlords in the business of renting housing are businesses for the purposes of this statute. Since 1992, the unlawful conduct need not amount to an ongoing practice or pattern of behavior. A lawsuit may be based on a single code violation in order to prevent or remedy an unlawful act.
This is a new legal approach being tried in the state courts in order to protect tenants from the risks of lead hazards. Therefore, it is unknown how successful it will be in addressing lead hazards. One way in which this Code section might be used in lead hazard cases is sanctioning landlords who discourage families with children from renting their apartments because the landlord knows or suspects a lead-based paint hazard exists. Such behavior by a landlord would be an unlawful business act because it discriminates against families. Alternatively, if a landlord is found to have violated a local or state housing code and fails to correct the problem, this single code violation could be held to be an unlawful act punishable under section 17200.

Local Authority to Abate Lead Hazards

In addition to the legal theories discussed above, there are numerous local housing and health codes which a tenant might use to enforce his or her right to a lead safe home. State law in California requires that local housing and health departments enforce minimum standards for safe housing. (California Health & Safety Code section 17961.) According to the Code of Health & Safety section 17920.3, buildings or apartment units which contain any of the following conditions are considered to be substandard housing:

*lack of or improper bathroom facilities;
*lack of or improper kitchen sink;
*lack of hot and cold running water;
*lack of adequate heating;
*dampness of rooms;
*general dilapidation;
*defective floors;
*walls, ceiling or roofs which sag, split, lean;
*any nuisance;
*crumbling or loose plaster.

California has not issued any regulations which specifically address lead hazards in residential housing. As a consequence, individuals who want to encourage landlords to prevent lead related illnesses must rely on one of these general building standards. For example, a tenant could
argue that his or her landlord is illegally maintaining substandard housing because of the presence of crumbling or loose plaster by relying on Health and Safety Code section 17920.3(c). The tenant could then ask if the paint used on that plaster has been tested for lead. While the landlord would not be required to test the paint under section 17920.3(c), this approach could at least raise the issue and heighten the landlord’s awareness of the potential lead risk. Even if such efforts do not result in a targeted lead reduction program, at a minimum when the plaster is repaired there will be a temporary reduction of lead-based paint hazards when the area is repainted.

As stated in the Nuisance section above, California has defined six types of nuisance. The presence of a lead hazard in one’s home could fall into two of these nuisance categories developed in California -- either interference with present enjoyment of land or danger of future injury. Like many of the theories discussed, the success of this approach is unknown and has not been actually litigated. But it is possible to develop a sound legal argument that the presence of lead-based paint in a home with small children interferes with the enjoyment of one’s home; it presents a danger of future injury; or it directly endangers tenants’ health.

The City of San Francisco currently has a Lead Enabling Ordinance which can be found in the San Francisco Health Code Article 26, section 1626. This ordinance specifically provides that if the results of a building inspection show lead in the paint in concentrations equal to or greater than 5000 parts per million (ppm), or lower if determined to be appropriate, the building owner must notify all building occupants of the test results. Landlords are not required to notify tenants unless the source of lead meets the 5000 ppm threshold. Again, a claim could be made under the failure to disclose caselaw if a tenant discovered a building inspection that showed excessive concentrations of lead paint and he or she had not been notified as required under the statute.

While this handbook was being prepared, the City of San Francisco began the process of drafting a lead abatement ordinance which will provide specific provisions for abating lead hazards in buildings where a child with elevated levels of lead in his or her blood is living or spending a significant amount of time. The diagnosis of such a child will trigger
the enforcement provisions of the ordinance. The enforcement provisions under the current draft include mandatory reduction of the lead hazard by landlords; relocation assistance to tenants required to move due to the lead hazard; payment of relocation costs by either the landlord or through a lead abatement fund; tenant provision to allow the deposit of monthly rent payments to a special escrow account rather than to the landlord until the lead hazard is corrected; and a provision to prevent landlords from passing the costs of lead abatement onto tenants in the form of increased rent in those cases where the lead hazard is the result of a code violation. The ordinance will also allow the city's Director of Public Health to test any building where an EBL child lives and declare buildings that are contaminated with lead to be a nuisance and order abatement of that nuisance. Copies of the proposed ordinance can be obtained at a nominal cost from the office of the San Francisco Board of Supervisors or at the San Francisco Public Library.

Both Los Angeles City and County have lead abatement ordinances in place which declare lead-based paint in residential housing a "health hazard" to children and a public health hazard that must be abated. (Los Angeles City Ordinance No. 12.158; Los Angeles County Code Ordinance No. 11.28.020) For example, the Los Angeles County Health & Safety Code states that no person shall permit any substance which contains dangerous levels of lead to remain on any toy, furniture, household product or exterior surface, interior surfaces, and fixture of any dwelling, child care facility, hotel guest room, or any premise frequented by children. Further, once identified, no one can refuse to reduce or remove the readily accessible, dangerous levels of lead bearing substance. Physicians and other medical personnel are also under a legal duty to notify the county health director of any child under age 7 with an elevated blood lead level of 30 micrograms per deciliter or more. The Los Angeles City Municipal codes on Public Health also incorporate these county code provisions.

But despite the strong language in the Los Angeles ordinances, many believe its enforceability is unrealistic because many of the abatement requirements are excessive in terms of time and expense. However, these laws are in effect in the Los Angeles area, and they should be used to fight a lead problem in your home. In fact, it was this
ordinance which lead to the inspection and abatement of the lead hazards in the Los Angeles County case referenced above. (See discussion of Morales v. Quan in the Negligence section above.)

Other cities considering lead abatement ordinances include Pasadena, Long Beach and Alameda. Be sure to check to see if there is an ordinance in effect where you live which requires your landlord to eliminate lead hazards. The existence of such an ordinance will provide the most direct and efficient means of correcting a lead problem. If there is no ordinance in place where you live, the existence of rent control laws may significantly affect your rights as a tenant. Therefore, you should also review any rent control laws which apply in your city. If possible, you should also check the housing you are planning to rent or buy for the presence of lead before you move in. This might be done by contacting your local Department of Public Health or Department of Building Inspections. These local agencies might have valuable information on the condition of your housing.

Federal Law And Private Housing

As early as October 1995, tenants may have additional rights using federal law. Under the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X Section 1018, 42 U.S.C. section 4852d.) the Environmental Protection Agency (EPA) is required to develop various rules to reduce the threat posed by lead-based paint. The EPA and the Department of Housing and Urban Development (HUD) have circulated a series of draft rules which will require sellers and landlords to disclose information about lead hazards found in target housing or be subject to civil and criminal penalties. Target housing includes any housing built before 1978. Housing for the elderly or disabled is not included unless a child under age six is living there. Studio apartments, hotels and motels are also not included in the definition of target housing.

The major components of the proposed disclosure regulations require landlords to do the following:

* give the tenant a copy of the EPA’s lead hazard information pamphlet before the tenant becomes obligated under the lease;
* give the tenant all information the landlord has regarding the presence of lead-based paint inside the apartment and in common areas such as halls or lobbies;

* provide the tenant with a certificate that states the landlord is in compliance with Title X and a lead warning statement which the tenant must sign;

* keep a copy of the certificate for three years so that the EPA and HUD can monitor landlords’ compliance with the regulations.

Where a landlord knowingly fails to comply with the regulations, the EPA or HUD can impose civil fines on the landlord. The regulations also provide for a private right to sue. Thus, tenants may bring their own lawsuits against a landlord for any personal injuries they may suffer. Tenants will also be able to recover court costs and attorneys fees spent on the lawsuit. Finally, the EPA and HUD will be able to bring criminal charges against noncomplying landlords. Criminal penalties may include fines up to $10,000 for each day the regulations are violated or imprisonment up to one year. (See Section 1018(b) of the Act, 42 U.S.C. 6215.)

Because these regulations are not in final form yet, it will be necessary to call the EPA (number listed in resources section of this handbook) or the Government Printing Office (GPO) to learn when they become effective.
IV. FEDERAL HOUSING AND THE LAW

If you live in any housing unit that is owned, insured or subsidized by the federal government (such as Public Housing or Section 8 Housing) there are specific laws that pertain to your situation. In particular, Title X of the Housing and Community Development Act of 1992, entitled the Residential Lead-Based Paint Hazard Reduction Act or merely Title X (found in the law library under the citation 42 U.S.C. section 4852), is a comprehensive law designed to address the growing problem of lead in federal housing. This Act provides that tenants must be informed of any lead hazards in their units; defective paint surfaces must be inspected; random testing for lead hazards must be conducted; and landlords must remove any lead hazards when a child is identified as lead poisoned and the source of the lead is the child’s federally subsidized unit.

The statute is designed to refocus the solution to the lead problem on cleaning up contaminated housing rather than just responding to sick children. It is hoped through this preventative approach that more children can avoid the harmful effects of lead poisoning.

Because over half of all U.S. housing contains lead, total elimination is virtually impossible and would be extremely expensive. The focus of the new law therefore is the reduction of the problem rather than total elimination or abatement. Unlike abatement, which would include elimination methods such as paint removal or replacing entire walls, doors, or window frames, Title X relies on a combination of strategies which include inspections or assessments of the lead risks on the property followed by a plan to reduce lead hazards through short term or long term interim actions. Interim actions are defined as any action designed to reduce, at least temporarily, human exposure or likely exposure to lead based hazards. These actions include specialized cleaning, repairs, maintenance, repainting, temporary containment, and resident education programs. Ongoing monitoring of the problem is a central element of interim controls.

Because lead reduction is the goal of Title X, the focus is on six (6) situations believed to present the greatest lead-based hazards. They are:
a. deteriorated lead-based paint (i.e. paint that is peeling, cracking, chipping or located on any surface that is damaged or deteriorated; 

b. lead-based paint on any "friction surface" (i.e. windows, painted floors); 

c. impact surfaces (i.e. interior or exterior surfaces subject to repeated impacts such as doors); 

d. accessible surfaces (any surface that a young child could chew on such as window sills); 

e. lead contaminated dust in concentrations exceeding EPA standards; and 

f. lead contaminated soil in concentrations exceeding EPA standards.

Abatement, which is the total elimination of lead, would occur under Title X only in specific instances. EPA rules would require total abatement of lead-based paint if the lead levels are more than 1.0 mg/cm$^2$ or .5% by weight when found on friction/impact surfaces, protruding surfaces, or in deteriorated condition on any surface. For lead located in soil where children play, abatement is required if the lead levels are over 5000 parts per million (ppm). If your housing development is undergoing a rehabilitation program and receives more than $25,000 in federal funds, all lead must be abated. (Title X section 1012, 42 U.S.C. section 4822(a)(1)(E).) Finally, if the housing was built before 1960 the lead problem must be eliminated.

**Federally Funded or Owned Housing**

Because Title X is limited to federal housing, the regulations are specific as to what is included in the term "federal housing". Generally speaking this includes housing units built before 1978 which are either sold by any federal agency, subsidized with federal assistance, or rehabilitated with federal funds. And beginning January 1, 1995, Title X
took effect governing these units. Federal regulations dealing with lead-based paint in federal housing can be found in Volume 24 of the Code of Federal Regulations (C.F.R.). The regulations dealing with lead paint in public housing can be found in section 35 of Volume 25. Sections 882.101(i), 886.113(i) and 887.251(i) of the same volume, all deal with Section 8 housing.

a) Housing Built Before 1960
   If your housing unit was sold by a federal agency, Title X section 1013, 42 U.S.C. section 4822(a)(3) applies and requires that all units have a lead inspection.

   If your housing is subsidized with more than $5,000 in federal project-based assistance or remodeled with federal funds, Title X section 1012, 42 U.S.C. section 4822(a)(1) requires that by January 1, 1996 all housing built before 1960 must be inspected and the lead based health risks assessed, followed by implementation of interim controls.

b) Housing Built Between 1960 - 1978
   For housing built between 1960 and 1978, tenants and buyers must be shown any inspection reports conducted to reveal lead-based paint hazards.

   For housing subsidized with federal funds in an amount over $5,000 which was built between 1960-1978, an initial risk assessment must take place between 1998 and 2002, followed by interim controls.

   An inspection for lead must also be carried out before any federally funded renovation and rehabilitation projects are performed, if such projects are likely to disturb painted surfaces.

Construction Regulations and Lead

In order to protect individuals working around lead hazards, the Occupational Health and Safety Administration (OSHA) has been ordered
to issue final regulations on lead in the construction industry. These regulations will apply to all construction settings including residential housing. (29 Code of Federal Regulations Part 1926.62). If your building undergoes lead control measures, the work done must conform to these regulations.

**Dangerous Levels of Lead in Dust and Soil**

The EPA has been ordered to establish regulations defining dangerous levels of lead in interior surface dust and bare soil. EPA is also responsible for drafting regulations which define lead-based hazards, lead-contaminated dust, and lead-contaminated soil, and recommending which abatement methods or interim controls work best in each situation. (TSCA section 403, 15 U.S.C. section 2683.) Therefore, EPA has published interim guidance as follows:

If the lead is located in a soil area children use, and the levels are between 400-5000 ppm (parts per million), interim controls are required such as planting ground cover, moving play equipment and restricting access. For lead soil levels exceeding 5000 ppm, abatement is required. For lead in dust, interim controls are required when the following levels are found: floors...100 ug/ft²; window wells...800 ug/ft²; window sills....500 ug/ft².

In addition, the EPA must come up with training and certification regulations for lead-based paint activities. (Toxic Substances Control Act (TSCA) section 402, 15 U.S.C. section 2682.)

**Other Legal Approaches in Federal Housing**

In addition to Title X, individuals living in federally owned or subsidized housing have been successful in bringing direct legal actions against the United States or HUD. In fact, tenants living in federal housing can bring the same types of actions brought by private housing tenants in order to recover for injuries suffered due to lead-based hazards. Several of these more traditional legal approaches are discussed above in Section III.
In Pierre v. US, 741 F. Supp. 306 (D.Mass. 1990) a homeowner purchased a home owned by HUD which HUD knew to have been painted with lead based paint. Prior to selling the house, HUD was required pursuant to the Code of Federal Regulations (24 C.F.R. Part 35) to inspect the house, determine the presence of any lead hazard, notify the buyer of any lead hazard, and remove or cover any lead hazard. HUD did not do any of these things. Pierre's daughter became ill and was found to have critical levels of lead in her blood. When HUD refused to remove the lead hazard, Pierre sued the agency and won in an action for negligence under the Federal Tort Claims Act (FTCA). The FTCA allows individuals to sue the federal government for conduct which would constitute negligence under state law if similar conduct was done by a private person.

There have been successes in public housing as well. In Housing Authority of East Hartford v. Olesen, 624 A.2d 920 (Conn. 1993) Olesen suspected the presence of a lead hazard in the public housing apartment where he lived. He did not inform the Housing Authority of his suspicions until after he withheld the rent. Sometime later after Olesen withheld his rent, the apartment was tested and excessive levels of lead were found. When Olesen continued to withhold his rent, the Housing Authority sued to evict him. Olesen successfully defended against the eviction suit brought by the Housing Authority for nonpayment of rent, arguing the lead-based paint made the apartment unfit.

It is critical to note that the key to the success of this case was the fact that state law in Connecticut mandated that rent shall not be collected for any period during which the landlord failed to put and keep a unit in a fit and habitable condition, including its being free of paint with an impermissible lead content. The court concluded that the plain language of the statute made it clear that the Housing Authority was not entitled to the withheld rent, nor was the Housing Authority entitled to any notice or a grace period to cure the problem before rent could be withheld.

In a case involving Section 8 housing, a tenant was successful in reversing a dismissal of her suit against a housing authority seeking damages for personal injuries to her children. In Ayala v. Boston Housing Authority, 536 N.E.2d 1082, (Mass. 1989) the tenant sued the
Boston Housing Authority (BHA) after her children became ill due to lead-paint hazards on two legal theories: a tort theory of negligence and a contract theory as a third party beneficiary of the contract between the BHA and the owner of the Section 8 unit. The court found that the Boston Housing Authority (BHA) had a duty to inspect for lead paint hazards under the HUD Lead-Based Paint regulations promulgated under the Lead-Based Paint Poisoning Prevention Act, and therefore the BHA was not entitled to a dismissal.
V. FAMILY STATUS AND THE LAW

Discrimination Based on Family Status

Because removing lead from houses and apartments is very expensive and time consuming, landlords who own property that is possibly contaminated with lead paint, water or surrounding soil may not want to rent to families with children or to couples where the woman is, or may soon become, pregnant. These landlords are aware that the property is dangerous to children and pregnant women and do not want to subject themselves to liability. Federal and California law make discrimination against families with children or discrimination based on familial or family status illegal. This means that a landlord may not refuse to rent to a family simply because there are children in the family. In addition, a landlord renting a house or apartment with lead-based paint or lead contaminated water cannot refuse to rent to a family with children merely because children are at greater risk of lead poisoning than adults. The landlord must treat people with children the same as people without children.

Even if the landlord does not intend to discriminate (i.e. doesn't know it is against the law, or is concerned for the safety of a child) his or her conduct still may be discriminatory and the landlord can be found liable for discrimination under the Federal Fair Housing Act. (Fair Housing Council of Orange County, Inc. v. Ayres, 855 F. Supp. 315 (C.D. Calif. 1994); 24 C.F.R. 864 (1994); and HUD v. Dunn, HUDALJ No. 04-92-0358-1., (Kentucky Oct. 8, 1993)).

The Federal Fair Housing Act (42 U. S. C. §§ 3601-3631) makes it illegal in the United States to discriminate based on family status. Section 3604 of the Fair Housing Act makes it unlawful to refuse to rent or negotiate the rental of a unit with any person because of their family status. Any person who is under 18 years of age, including an unborn child, and lives with his or her parent or guardian is included in the definition of family status. There are three major exceptions to the Fair Housing Act: 1) a landlord who owns 3 single-family houses or less; 2) a landlord who owns and lives in an apartment building with 4 units or less; and 3) a landlord renting a room in the same house he actually occupies.
These three categories of landlords are allowed to refuse to rent to you because you have children. (42 U.S.C. § 3603(b).) However, these exceptions only apply under federal law. If you feel you are being discriminated against, you may still be able to prevail under another theory or under California law.

A case decided in the US District Court of Maine held that a landlord could not refuse to rent to a family with children because the landlord thought the house and the land it was located on would be dangerous to the children. (Unites States v. Grishman, 818 F. Supp. 21 (D. Maine 1993)). Similarly, an administrative law judge in a case filed with the US Department of Housing and Urban Development (HUD) found that the existence of lead paint in the apartment was not grounds to reject families with children as tenants (HUD v. DiBari, HUDALJ No. 01-90-0511-1 (Mass. 1992)). Also, in HUD v. Murphy, HUDALJ No. 01-92-0419-1 (Mass. Sept. 22, 1993), the landlord refused to rent an apartment to the plaintiff and her 8 year old daughter because the building contained lead-based paint. The administrative law judge held that the landlord violated 42 U.S.C. section 3604(a). The judge stated that it was unlawful to refuse to rent to families with children because the "premises do or may contain paint, plaster, soil or other materials containing dangerous levels of lead." The judge ordered the landlord to pay the tenant $1,000 in damages.

Even before Congress explicitly recognized "family status" as an illegal basis for discrimination in housing, the California courts prohibited such discrimination pursuant to the state’s civil rights law. In 1982, the California Supreme Court issued a landmark decision, Marina Point, Ltd. v. Wolfson, 30 Cal. 3d 721 (1982), cert. denied, 459 U.S. 858 (1982). In that case, the Wolfsons moved into an apartment where the rental policy was changed to exclude all children under age 18. The lease also contained a clause which stated that minors under age 18 could not reside in the apartment complex without the landlord’s written permission. The Wolfsons thereafter had a child and were told that their lease would not be renewed solely because of their child’s presence. When they refused to vacate the apartment, the landlord attempted to evict them. The Supreme Court of California decided that the owner of the apartment complex could not refuse to rent to a family simply because a child will be living
in the apartment. The court reached its decision interpreting California’s Unruh Civil Rights Act. (California Civil Code section 51.)

The Unruh Civil Rights Act, California Civil Code Sections 51, 51.2 and 52, prohibits businesses from discriminating based on numerous criteria, including age. In California, being a landlord or a homeowners association is a business for the purposes of the Unruh Act. (Park Redlands Covenant Control Committee v. Simon 181 Cal. App. 3d 87 (1986).) Some housing designed especially for senior citizens is exempt from this law and landlords of senior housing are allowed to prohibit children from apartment units under section 51.3 of the Unruh Act.

In 1993, California amended its Fair Employment and Housing Act (See Government Code section 12955) to explicitly prohibit the owner of any housing accommodation from discriminating against any person because of his or her "familial status."

A landlord or property owner has the duty to make sure his rental property is safe for every tenant who legally is entitled to rent it. Instead of refusing to allow children to live in the house or apartment, the landlord must make the unit safe for people to inhabit. (see section on Warranty of Habitability)

If you feel that you have been discriminated against, or if you think a landlord will not rent to you because you have children, these laws may be able to help you solve the problem. In the past many landlords have been reluctant to rent apartments or houses to tenants with children because the landlords think the children will disrupt the neighbors, ruin the carpet and various other reasons. This conduct is now illegal under each of the above laws.

**Discrimination Based on Marital Status**

Just as it is illegal to discriminate against individuals with families, it is also illegal to discriminate based upon someone’s marital status. The California Fair Employment & Housing Act (Government Code section 12955), among other things, protects homosexual couples, people in
communal living situations and unmarried couples living together from housing discrimination.

However, the extent of this protection has been put in doubt by a recent California case, *Donahue v. Fair Employment & Housing Commission*, 13 Cal. App. 4th 350, 360 (1991), where an unmarried couple seeking an apartment was told by the landlord that she did not rent to unmarried couples. After the tenant filed a complaint with the Department of Fair Employment and Housing, the Department charged the landlord with unlawful housing discrimination based on marital status, and won. The landlord then filed her own action against the Department. The court concluded that because the landlord, as a devout Roman Catholic, held the sincere belief that living together without the benefit of marriage is a mortal sin, the landlord’s right to the free exercise of her religion entitled her to an exemption to the housing discrimination law in Government Code section 12955.

Although the appellate court’s decision is being appealed to the Supreme Court of California, the court’s decision may provide a way for landlords to avoid renting to unmarried couples with children. It is likely the Supreme Court will uphold the law which protects couples from discrimination based upon marital status, but it is not clear if the Supreme Court will allow a religious exemption for sincerely held religious beliefs when a landlord refuses to rent to unmarried couples.

**What You Can Do About Discrimination In Housing**

If you think you have been discriminated against because you have children, you have several options to enforce your rights. The first thing you should do is write down everything you can remember about the initial incident. Every time you talk to the person you think discriminated against you, write down exactly what went on in the conversation as soon as you can after it happened so you don’t forget anything. Also save any recordings that the landlord or apartment manager may have left on your answering machine.

You can contact the landlord who has discriminated against you directly, tell them that discrimination based on family status is illegal and
insist upon being considered fairly for the house or apartment you want. Tell the landlord you know about the law and give him or her the information and code sections you are talking about, such as the Federal Fair Housing Act sections referred to here. However, this approach may not work for a variety of reasons. Also remember that there are exceptions for landlords who only rent rooms or own less than four rental units.

Almost every large city in California has a fair housing office or tenants organization dedicated to protecting your rights as a tenant. You can find out about these organizations by checking the listing in the back of this pamphlet. If no organization is listed in your area, look at the beginning of the 'For Rent' section of your local newspaper for advertisements about housing discrimination or check the Yellow Pages of the phone book under Housing Authorities. A fair housing representative can tell you about your short and long term options and may be able to refer you to a lawyer.

If there is no fair housing or tenants organization in your area you may consider contacting a lawyer directly. You can find a lawyer in the Yellow Pages of the phone book under "Attorneys" or you can call your local Bar Association (i.e. San Francisco Bar referral service, Los Angeles Bar referral service) or the referral service of the State Bar of California. A Bar Association will give you the name and phone number of someone who specializes in housing discrimination or tenant law. This is a relatively new area of the law and many lawyers are not specialists in housing discrimination based on family status. You should 'shop around' for a lawyer whom you can work with and is knowledgeable in this area of the law.
VI. YOUR RIGHT TO KNOW AND THE LAW

Proposition 65

In 1986, the California voters passed Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986. It is now part of the laws of the state. This law in some circumstances entitles you to notice about lead exposure and may entitle you to sue for lead exposure and for a portion of the penalties assessed against the landlord if it is determined the landlord violated the law.

Currently there are over one hundred listed chemicals which businesses must warn consumers about. Proposition 65 requires that the Governor prepare a list of carcinogens and reproductive toxins (Section 25249.8). A panel consisting of scientists appointed by the Governor and members of state and federal agencies meet and discuss what items belong on the list. Every year this list is updated, with newer chemicals added to the list. For example, only certain lead compounds were originally on the list. During 1992, lead and all its compounds as a group were added to the list. Proposition 65 is located in the California Health and Safety Code at sections 25249.5 through 25249.13. You can find it at one of the public law libraries listed at the end of the Handbook. The two sections of primary concern discussed here are sections 25249.5 and 25249.6.

Discharge of Toxins into Drinking Water

Section 25249.5 states that no one may add a chemical that is known to cause cancer (carcinogen) or to be a reproductive toxin, into a source of drinking water. Lead, a reproductive toxin, is one of the chemicals that cannot be added to drinking water. This means that lead cannot be added to waters that eventually will become part of the drinking water supply.

Warnings of Exposure to Toxins

Section 25249.6 of Proposition 65 also requires businesses to warn the public that they are being exposed to toxins. This means that when a business sells a product or carries on a business activity such as leasing
apartments, which exposes the public to a reproductive toxin or carcinogen, the business must warn those who are exposed. Lead is one of the chemicals that the public must be warned about.

**Proposition 65 Knowledge Requirement**

Both sections 25249.5 and 25249.6 state that for a business to be found in violation, the business must "knowingly" expose the public or put toxins in the drinking water. The proposition does not define what these words mean, however, the regulations implementing the law have clarified that 1) the business must know that the exposure, release, or discharge is happening and, 2) know that the toxin is on the list of those prohibited by the law.

Because they must know they are exposing the public to toxic chemicals, businesses cannot be held liable under this law for accidents. If a business violates the proposition accidentally and without knowledge or intent, it can not be sued. It is possible to avoid this "accident exception" if the business was negligent. In other words, if the business did not use reasonable care in carrying out its business activities and this negligent conduct led to an exposure or discharge into drinking water, the business may be liable.

**Citizens Have a Right to Sue**

The law also permits citizens to file a lawsuit against anyone who violates Proposition 65, provided several requirements are met. (Section 25249.7) First, before filing a lawsuit, citizens must give notice to the business, the Attorney General, district attorney, and the local city attorney of their intent to sue 60 days before the suit is actually filed in court. Citizens can sue only if the attorneys mentioned above do not sue.

Next, the type of business being sued cannot be one of those exempted by the law. First, landlords or apartment managers who have less than 10 employees are exempt. Therefore, your landlord cannot be sued unless he or she employs at least 10 people. Next all city, county, state and federal agencies are exempt, including government housing agencies. There may be an exception where the government housing is

39.
managed by a private manager. Finally, any agency running a public water system is exempt. This means that citizens can not sue the government or manager of a public water system for having contaminated the water. A complete list of the exemptions can be found in section 25249.11(b).

If a citizen brings a lawsuit and wins, the business will be required to pay a fine. (See section 25249.7) The fine can be up to $2500 per violation for each day that the business violated either section 25249.5 or 25249.6. As the winning party in the lawsuit, the citizen-plaintiff is entitled to collect a portion of the fine. This type of suit can be brought in any state civil court that has jurisdiction over the business. Generally speaking, for businesses that operate in California, the lawsuit must be brought in a civil court in the same city where the business is located.

Can Proposition 65 Help Apartment Renters?

Lead in Tap Water

Tenants may be exposed to lead in tap water from their kitchen faucets and apartment pipes. Virtually all faucets manufactured in the United States today contain lead, ranging from 2% to 8% by weight. These faucets, especially when new, leach lead into your tap water; some older faucets continue to put lead into tap water as well.

Because exposures to a very small amount of lead (0.5 ug/day) trigger Proposition 65’s warning requirements, the statute requires that tenants be given a warning about exposures to lead in tap water resulting from use of household faucets. Most manufacturers now are currently providing some type of warning with faucets sold in California, even though many of these warnings are not very effective (i.e. some are found in the warranties that come with faucets, which tenants who do not buy the faucets never see). Nonetheless, given the current Proposition 65 regulations, it is probable that a court would hold that these warnings are adequate and that neither the manufacturer or the landlord is required to provide additional warnings to tenants.
An undecided legal question is whether the leaching of lead from faucets into tap water constitutes an unlawful discharge into drinking water under Proposition 65 (as well as an exposure that requires a warning). This issue is currently pending in the California court of appeal. If the court rules that this leaching is a discharge, it will be a powerful tool to force manufacturers to drastically reduce the amount of lead in their faucets.

Landlords may be required by Proposition 65 to warn tenants about lead exposures in tap water that result from pipes in an apartment. Older buildings may have lead pipes, and as noted above, even a very small amount of lead exposure requires a warning under Proposition 65. The key issue in this situation, however, is whether or not the landlord knows that the pipes contain lead, and therefore that an exposure to lead is occurring. If the landlord knows that an apartment’s pipes contain lead, arguably she has a duty to warn her tenants under Proposition 65.

To avoid lead contamination in your drinking water, before using tap water for eating or cooking always let the water run for a minute. This should clear out water that may have absorbed lead while sitting in the faucet or your apartment pipes. Always use cold water for cooking or drinking. You can also have your water tested to see if it is being contaminated with lead from your faucet or pipes.

Lead in Paint

Landlords may be required to provide you with a Proposition 65 warning if you or your children are exposed to lead-based paint. There are a few key issues in determining whether a warning is required. The first is the amount of lead that you or your child is actually exposed to. Exposure refers to the amount of lead which a person actually takes into his or her body -- through eating paint chips, breathing lead dust, or through skin contact with lead particles. Because even a very small amount of lead exposure requires a warning under Proposition 65, this requirement may be met even with relatively minor exposures.

The second issue is the knowledge requirement discussed above. In other words, whether a landlord knows that she is exposing you or your
children to lead. This depends on a number of factors, including the age of the apartment house, the landlord's familiarity with the history of the building, the condition of the apartment, and others. If the apartment was built before 1950, for instance, there is a high likelihood that it contains lead-based paint. If the paint in an apartment is peeling, tenants may be able to show that the landlord knew or should have known that tenants would be exposed to lead.

Finally, there is the 'exposure' issue. A landlord may argue that by renting an apartment she is not actually responsible for any exposing tenants to lead-based paint, and thus has no obligation to warn under Proposition 65. "Exposure" under the Proposition 65 regulations means to cause to ingest, inhale, contact via body surfaces or otherwise come into contact with a chemical. (26 California Code of Regulations Section 22-12301(f).) This argument is not a strong one, but it has not been addressed in any Proposition 65 cases to date.

Recently, a case was filed against Stanford University alleging Proposition 65 violations. (Dennison-Leonard v. Stanford University No. 726942; Santa Clara County Superior Court, 1994). In that case, it was found that playground equipment and student housing apartments were contaminated with lead-based paint. Students filed a lawsuit after conducting tests on their own which showed the paint contained lead. The case was settled and Stanford has cleaned up most of the areas contaminated with lead-based paint. However, because the case was settled, many issues were not litigated and therefore it is unknown whether a landlord has a legal duty to monitor peeling paint, test any peeling paint and warn tenants of any exposure to lead. It is also unknown if peeling paint, especially in older housing, can be used to show that the landlord knew or should have known that tenants were exposed to lead. Hopefully, cases in the future will define the limits of Proposition 65 in lead-based paint cases.
VII. ENFORCING YOUR LEGAL RIGHTS

Perhaps the first step in enforcing your right to lead safe housing, is knowing where to find the law. State law in California that is currently in effect can be found in your local law library in the California Codes. These books are divided by subject matter. Several sections of California law deal with safe housing, tenants rights and the duty of landlords. Most public libraries will also contain copies of the California Codes. All law libraries contain copies of the Federal Codes, the State Codes and the local city ordinances for that particular city. Usually, your local City Hall will have a small law library that is free and open to the public. The HELP RESOURCES section at the end of this handbook also lists phone numbers and resources which may help you locate a library. If there is nothing in your area, check the yellow pages of the local phone book under "Libraries", check the Government section in front of the white pages, or call information and ask for the local public law library. Once you get to a library, the librarian will help you find the statute or regulation you need.

Even though reading these statutes and regulations may be difficult, knowing where they are can be very useful. By knowing where the law is, you may be able to assist your attorney who may not be familiar with researching this area of the law. As discussed above, laws dealing with lead hazards are emerging in California and it is likely that your attorney will not be familiar with these laws or legal theories.

If you find you need assistance, you may want to contact a lawyer. The local Bar Association can provide referral services and should be able to recommend a lawyer who deals with this area of the law. When you talk to the lawyer, tell him or her about the problem and let him or her know what you have done so far (i.e. conversations with the landlord, letters you’ve written, tests you’ve taken). If possible, you should document everything you do by keeping some form of journal or daily log. If the attorney says that he does not know if he can help you, tell him that you think your home is "unlivable." Don’t be discouraged if the first attorney you talk with is unable to help you. Unfortunately, this is an emerging area of law in California and it may take several calls to find someone who can offer legal assistance.
If you learn that your home is contaminated with lead paint, lead dust or has lead in the water, legally your landlord should fix the problem because a lead hazard makes your home unsafe or untenantable. It is important to let your landlord know that your home is not lead safe. You should also inform your landlord if your child has a high level of lead in his or her blood and you are not sure where the lead came from. Tell your landlord you want her to test your home for a lead problem. Also be sure to contact your local health department since some health departments provide free lead testing when a child has been diagnosed with an elevated blood lead level.

Again, your landlord should be informed of this problem immediately. It is important to inform your landlord verbally and in writing about the nature of your lead problem. For example, your landlord should be informed of when you became aware of the problem, the results of any tests you may have conducted or tests your doctor may have taken, your plans to live somewhere else until the problem is fixed or other changes to your daily lifestyle you might make like purchasing bottled water. Next, request that the problem be fixed immediately. Before work begins, you should try and make sure that the lead abatement work is being done by someone certified to do this kind of work. Landlords who choose to do the work themselves may do it in a dangerous manner and create an even worse lead hazard. And always keep a copy of what you send your landlord.

Depending upon the seriousness of the lead hazard in your apartment, your landlord may have a limited period of time during which to make repairs. For example, in cases of extreme lead risk, a landlord may have as little as a few days to begin repairs. On the other hand, less than serious lead hazards may entitle the landlord to as many as 30 days to remove the lead risk. It will be necessary to review the local building and housing codes in your city to determine how soon repairs must be made. Under the currently proposed San Francisco ordinance, for example, the owner will have 14 days to substantially complete lead hazard reduction and 30 days if it is necessary to obtain special permits and contractors. (See the Local Authority section above for more on the San Francisco ordinance.)
As you may have seen from this Handbook, there are many different lead abatement laws and regulations. There are federal laws that apply to federally funded housing and, in some cases, private housing. For example, if you live in federally assisted housing, such as Public Housing or Section 8 Housing, the most direct approach to enforcing your right to lead safe housing is Title X, The Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. section 4852). The regulations for implementing the Act can be found in the Code of Federal Regulations, 24 C.F.R. Part 35.

You’ve also seen that California does not have an explicit state law which requires landlords to eliminate lead hazards. On the other hand, some California cities or counties may be fortunate enough to have a lead abatement law as part of their local ordinances. Rent control laws may also apply in your community, and you may be able to use those laws to petition the rent board for a reduced rent if the lead problem is not abated and you can not relocate. In at least one case, the Rent Board in San Francisco found for a tenant who brought a lead complaint to the board.

Despite this mixed bag, the statutes and cases found in this Handbook can work to promote your right to a lead safe home. Many attorneys working in landlord-tenant law believe that landlords have a duty to eliminate lead hazards based upon a combination of state statutes (such as the Health and Safety Code), local ordinances passed at the city level, and caselaw that has developed in California courts and in other states courts.

Because the law is not well defined in this area, a lawsuit against a landlord may involve several different theories in order to be successful. However, no case is certain to win. A great deal depends on the particular facts of your case and how well those facts support the legal theories discussed in this Handbook. For these reasons, negotiation, mediation and organizing among tenants to seek an amicable resolution with your landlord may be advisable first steps before litigation.

Finally, whatever legal theory or body of law that is used to promote your case, any lawsuit for personal injuries must establish what caused the injury. In other words, a tenant-plaintiff will have to show the
link between the lead hazard found in the home and the resulting injury. As seen above in the discussion of the Morales v. Quan case, these issues of causation can be critical to a case.

If you need to enforce your right to a safe place to live, seek out others who may be able to provide valuable support for your efforts. Your local rent board, the health department, a tenant's group, and a knowledgeable attorney all may have information, skills, and experience which will make getting the job done easier. The HELP RESOURCES at the end of this brochure will provide the names and telephone numbers of places to start.
VIII. QUESTIONS AND ANSWERS

WHO SHOULD I CALL IF I AM WORRIED THAT THERE MIGHT BE A LEAD HAZARD IN MY HOME?

If you suspect that you and your family may be at risk for lead poisoning, you should call the Department of Public Health. Unfortunately, the Public Health Department may not have the resources to inspect your home. The Department will provide you with information on how to obtain a reliable kit for lead testing in your home. The cost of the kit is approximately $15.00. The Department will also recommend that you have your children tested for elevated blood lead levels.

Ask the doctor to send a copy of the test results showing your child’s elevated blood lead levels to the Department of Public Health and to provide you with an official copy of the test results. If the lead level is greater than 15 ug/dl (micrograms per deciliter), the Department will send a nurse educator to your home to provide you with information and help you identify the possible sources of lead poisoning. If the lead level is greater than 20 ug/dl, an industrial hygienist will come to your home and do sampling of paint to determine if the paint is the source of the lead hazard.

The Department of Public Health will also send you an application to have your water tested by the Water Department. The cost for water analysis is $25.00.

If you use a private laboratory analysis for paint or water sampling, check with the California Department of Health Services to obtain a list of labs that are certified to do accurate work. You can also check the Yellow Pages of the telephone book under "Laboratories", and call a few labs and ask for their certification. They must give you this information.

WHAT CAN I DO TO HELP PREVENT LEAD POISONING?

There are several steps you can take to prevent lead poisoning of your family members. These steps include:

- washing your children’s hands frequently, especially before eating and sleeping;
- washing floors and window sills weekly with soapy water and a wet rag or mop;
- having your children tested by their doctor;
- avoid doing any dry scraping of surfaces, sandblasting, waterblasting, or flame torching of old painted sources.

WHY CAN'T I JUST REMOVE THE PAINT IN MY APARTMENT MYSELF?

There are many dangers involved in removing lead paint from your home. Every member of your family can be seriously poisoned if removal is done incorrectly. Remodeling and renovating may create a lot of lead dust. Before you try to replace, cover, or remove the lead-based paint in your home, call the Environmental Health Section of your local County Health Department. Call before you begin working. They can tell you how to safely "de-lead" by providing detailed information about safe handling of lead and home remodeling tips. Neither you nor your landlord should begin working to eliminate the lead without taking proper precautions.

AT WHAT AGE SHOULD MY CHILD BE TESTED?

It is important to discover possible lead poisoning early to avoid the most serious effects. The greatest risk is to children between the ages of 6 months and 6 years old. The Center For Disease Control (CDC) recommends testing at 12 months and again at 24 months, with earlier and more frequent testing of children who live in older or run-down housing units.

WHAT TEST SHOULD MY CHILD HAVE?

The only accurate test for detecting lead poisoning is the venous blood test. It is currently the only test authorized in California. No matter where you are, make sure your doctor does not use the erythrocyte protoporphyrin (EP) fingerstick test. This test does not give accurate results. Be sure to get a copy of your child’s blood lead level for your own records.
WHAT DO THE BLOOD LEVEL RESULTS MEAN?

Most children have a blood lead level of less than 10 ug/dl (micrograms per deciliter). The blood lead test gives an idea of how much lead your child has been exposed to over the last month or so.

a. Below 10 ug/dl - This is a normal blood lead level. If you live in an older home with peeling paint, your child may need to be tested again within the next year.

b. 10-14 ug/dl - This means your child has a low exposure to lead. Your child may need to be tested again in 3 months. Talk with your doctor about reducing lead related risks and nutrition. Look for lead hazards around your home and learn to keep it clear of dust.

c. 15-19 ug/dl - This means your child has a mild exposure to lead. Your child needs another blood lead test in 3 months. Talk with your doctor. Look for lead hazards around your home. Call the lead program. If your child has a 2nd test result in this range, your home should be tested for lead.

d. 20-44 ug/dl - This means your child has moderate to high exposure to lead. Immediately make an appointment to confirm your child’s level. Lead hazards must be found and reduced. If the confirmatory level is 15 ug/dl or higher, call the Department of Public Health and have your home tested for lead. Your child needs a full medical check-up for lead. Follow your doctor’s recommendations for re-testing. Keep your doctor appointments.

e. Above 44 ug/dl - Lead poisoning at this level is serious. A blood lead level over 70 ug/dl is a medical emergency. Your child needs a full medical check-up and treatment NOW! Your child may need to be hospitalized. Lead hazards must be found and removed. Your child needs a lead safe home to get well. Follow your doctor’s recommendations for re-testing. Keep your doctor appointments.

WHAT IF I CAN’T PAY FOR A BLOOD TEST?

a. Private health insurance - If you have private health insurance for your child, the insurance company must pay for a blood lead test if it is ordered by a doctor. Be firm and don’t let the doctor talk you out of having the test done if you believe that your child is at risk because of lead hazards in your home. If your doctor refuses to do the test, call the
Department of Public Health in your area for a referral. Health insurance policies and HMO's are required to cover costs for lead testing and treatment (See Health & Safety Code sec. 1367.3, Insurance Code Sec. 10119.8 and 11512.35)

b. Community clinics - Community clinics provide health care services, including blood lead testing, at a low cost. Clinics also may be able to help you apply for Medi-Cal or the Child Health and Disability Prevention Program (CHDP) to pay for the lead test. If you qualify for the CHDP program, the program will pay for the entire medical exam. To find the community clinic nearest you, call your Department of Public Health.

c. Medi-Cal Program - Under Medi-Cal, your child has a right to regular health check-ups that include lead screening, testing and follow-up treatment if necessary. Treatment may also include a home visit by a nurse to help you find what is causing the poisoning. If your child is on Medi-Cal, tell your doctor you want a "CHDP" health check-up for your child.

1. If your child is 6 or under, the Medi-Cal check-up must include screening (the doctor must ask certain questions) for lead. Remember, if you answer yes to any of the screening questions the doctor must do a blood lead test.

2. A blood lead test must be given to all children at age one (1), even if you answer no to all screening questions.

3. If your child is over 1 but under 6, and has never had a blood lead test, he or she must have a blood lead test at the next health check-up.

4. If your child is over 6, your child must be tested on the doctor's order. The doctor should order a test if (1) your child shows symptoms of lead poisoning, or (2) your child is developmentally delayed and displays "pica" (a child who eats dirt, ash or non-food items) or hand-to-mouth behavior.

**HOW CAN I GET MEDI-CAL FOR MY CHILD?**

a. Children under 21 with limited resources can get Medi-Cal. Children in families with income above Medi-Cal's income limit can still get Medi-Cal but pay part of their medical care.
b. Apply for Medi-Cal at the County Department of Social Services office nearest to you.

c. If your child is already being seen at a community clinic, you may be able to apply for Medi-Cal at the clinic.

**WHAT IF MY CHILD CANNOT GET MEDI-CAL OR HAS A SHARE OF COST?**

The State CHDP program is for children from moderate and low income families (including undocumented children) who cannot get Medi-Cal or who have Medi-Cal with a share of cost. This program pays for regular health check-ups, just like Medi-Cal "CHDP" health check-ups. Your child on CHDP has the same rights to screening for lead poisoning, plus testing and follow-up treatment if necessary. To find out if your child is eligible for CHDP, how to apply for CHDP, and where to go for health check-ups, call the CHDP program. Or, you may apply for CHDP at any community clinic and many private doctors.

**IS THERE ANYTHING I CAN DO IF I THINK I AM BEING REFUSED HOUSING BECAUSE I HAVE CHILDREN?**

If you think you have been discriminated against because you have children, you have several options to enforce your rights. You can contact the landlord directly who refused to rent to you. Explain to the landlord that discrimination based on family status is illegal and demand to be considered fairly for the house or apartment you are interested in. This approach does not always work.

Almost every city in the Bay Area has fair housing and tenant organizations dedicated to protecting your rights as a tenant. You can find out about these organizations by checking the listings at the end of this brochure. You can also call the California or San Francisco Bar Association referral service. Ask for the name and telephone number of an attorney who specializes in housing discrimination or tenants’ rights law. This is a relatively new area of the law. Many lawyers are not specialists in housing discrimination based on the familial statute. You should "shop around" for a lawyer you can work with and one who is knowledgeable.
CAN I BE EVICTED FOR COMPLAINING ABOUT LEAD HAZARDS?

The law says that as long as you have not defaulted on your rent payment your landlord cannot take retaliatory action against you. This means that your landlord cannot evict you or threaten to evict you for complaining to an agency about a lead hazard in your apartment, for organizing or participating in a tenants organization or union, for reporting your child’s elevated blood lead levels (EBLs), or for protesting the unfit condition of your apartment. This law is found in California Civil Code section 1942.5.

WHAT CAN I DO IF MY CHILD IS LEAD POISONED AND WE LIVE IN PUBLIC HOUSING?

Under these circumstances, federal regulations provide that HUD must test the paint in your unit within 5 days of learning your child has an elevated blood lead level. If lead is found, the source of the lead problem must be abated within 14 days after testing. If abatement is not possible, the child and family must be relocated.

There are three levels of authority which can deal with lead-based hazards in Public Housing. Start by notifying the property manager of your housing unit that your child’s test results show elevated blood levels for lead. Tell the manager that federal law requires testing for the source of the lead within 5 days of your child’s diagnosis and abatement within 14 days. In addition to testing the paint in your unit, you may decide to request a transfer to a lead-free unit and reimbursement for medical expenses. Your manager has claim forms which you may submit requesting a transfer and/or compensation. Be sure to keep copies of any claims you file with the property manager.

If the property manager is unable or unwilling to remedy the situation, call your Public Housing Authority. At the San Francisco Public Housing Authority, you should tell the office where you live and ask for the name and telephone number of your District Manager. Then call the District Manager and explain the problem. If, once again, no action is taken, call the Housing Authority office again and report the test
results for your child and arrange for relocation, compensation, or abatement.

**WHAT CAN BE DONE IF I LIVE IN SECTION 8 HOUSING?**

According to federal law, if your home was built before 1978, your unit must be inspected for chipping, peeling, or loose paint. If such paint is found, it must be removed or covered within 30 days. If a child under age 6 lives in the Section 8 apartment and is diagnosed with an elevated blood level of 25 micrograms per deciliter or more, the apartment must be tested for lead. If lead is found on any chewable surface, the owner must remove or cover all chewable surfaces up to five feet high.

Since you are renting in a privately owned building, it is the responsibility of the owner of your unit to provide a lead-safe environment. Notify the owner of the problem immediately. If he/she fails to take any action, call the Housing Authority office and ask to speak with an attorney on the Authority’s legal staff.

**CAN I WITHHOLD MY RENT TO FORCE MY LANDLORD TO CLEAN UP THE LEAD HAZARD?**

If you notify your landlord of a lead hazard and he/she fails to fix the problem after a reasonable period of time (usually 30 days), you may withhold some money. The law (California Civil Code sec. 1942) has a "repair and deduct" provision. You may not, however, deduct more than one month’s rent twice in any 12-month period. This remedy will probably be inadequate, however, because the cost of covering or removing the lead-based paint is likely to exceed one month’s rent payment. Don’t try to remove the hazard yourself or allow your landlord to do it while you are living in the apartment. If the hazard is not removed correctly, it will only make the problem worse.

Also, if you live in San Francisco, be sure to check whether the proposed lead abatement ordinance has passed since it may provide for an enforcement mechanism to force your landlord to clean up the lead hazard.
CAN THE COSTS OF REMOVING THE LEAD HAZARD IN MY APARTMENT BE PASSED ON TO ME IN THE FORM OF A RENT INCREASE?

This is one of the most debated issues on the treatment of lead hazards. It will be necessary for you to conduct some research on your own to answer this question. Generally speaking, however, if your community is protected by rent control laws, landlords are strictly limited on when and how much a tenant’s rent can be increased. If there are no rent control laws in your community, a rent increase will depend on the terms of your lease, the nature of the work completed to remove the lead hazard and other local ordinances passed in your city.

MUST I BE WARNED IF AN APARTMENT CONTAINS A LEAD HAZARD?

If you plan to live in federal housing such as public housing or Section 8 housing or intend to purchase a house from the federal government, you must be warned of any lead hazard before moving into the apartment or purchasing the house under the Residential Lead-Based Paint Hazard Reduction Act.

In the case of a private house, a landlord has a duty to inform you about any hazards that he or she knows about or should know about. Further, if the landlord knows that tenants are exposed to a lead risk, he or she must warn those being exposed under Proposition 65 if the landlord or manager employs more than 10 employees and is not a branch of any government agency.
IX. HELP RESOURCES

FEDERAL/NATIONAL INFORMATION

[1] EPA SAFE DRINKING WATER HOTLINE
800-426-4791
Provides maximum contaminant levels, educational materials, will discuss lab analysis results.

[2] NATIONAL LEAD INFORMATION HOTLINE
800-424-5323 (800-LEAD-FYI)
Provides educational materials, referrals.

[3] NATIONAL LEAD INFORMATION CENTER
National Safety Council
General information on lead hazards in the home and lead poisoning.
202-293-2270

[4] LEAD INFORMATION HOTLINE
510-450-2424
Free general information on how to get testing, identify sources, lead abatement.

[5] ENVIRONMENTAL DEFENSE FUND
510-658-8008
Information on lead in china dishes on request.

[6] HOME TESTING KIT: LEAD CHECK SWABS
800-262-LEAD
8 swabs are $21.95 (2-3 tests per swab).

[7] UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
HUD HOTLINE
800-RID-LEAD
CALIFORNIA - MAIN REGIONAL OFFICE
415-556-5900

[8] HUD - FAIR HOUSING ENFORCEMENT
415-556-6641

[9] NATIONAL INSTITUTE OF OCCUPATIONAL SAFETY &
HEALTH (NIOSH)
800-356-4674 (800-35-NIOSH)

[10] CENTER FOR DISEASE CONTROL
4770 Buford Hwy (F-42)
Atlanta, GA 30341
404-488-7330
Free copies of "Preventing Lead Poisoning in Young Children" on
request.

CALIFORNIA STATE INFORMATION

[11] EPA REGION IX (CA) LEAD HOTLINE
415-744-1086
Educational materials.

[12] CALIFORNIA STATE DEPARTMENT OF HEALTH
SERVICES: ENVIRONMENTAL ACCREDITATION
PROGRAM
510-540-2800
Provides list of labs that are certified to test your water, cost is
usually about $20.00 for analysis but senior citizens receive a
discount. This agency can also refer you to a laboratory which
analyzes paint samples for the presence of lead.
If you don't want to pay for the list, check the list of labs in the
Yellow Pages of the telephone book under "Laboratories" and call
them and ask for their certification. They must give you this
information.
STATE CHILDHOOD HEALTH AND DISABILITY PREVENTION PROGRAM (CHDP)  
800-794-3446  
Free blood testing for children is available for low and moderate income family. This program is carried out through Children’s Medical Services at the Department of health. Ask if you qualify.

CALIFORNIA STATE BAR ASSOCIATION  
415-561-8200  
Referrals for attorneys.

LEADSANE CALIFORNIA  
415-397-4210  
Public interest organization working on lead legislation for California; information on Childhood Lead Poisoning Prevention Program (CLPP).

EPA SAFE DRINKING WATER HOTLINE  
Provides information on lead in drinking water.  
800-426-4791

CALIFORNIA DEPARTMENT OF HEALTH SERVICES  
Childhood Lead Poisoning Prevention Program  
Will refer you to the appropriate county agency.  
510-450-2400  
Food & Drug Branch  
Will provide information on lead in tableware.  
916-445-2263
INFORMATION BY CITY AND COUNTY

SAN FRANCISCO

[18] SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH
415-255-3748
Provides educational materials in several languages for parents through the Childhood Lead Prevention Program (CLPP).

[19] SAN FRANCISCO HOUSING AUTHORITY
415-554-1200
Call for lead hazard problems in federally assisted housing.

[20] SAN FRANCISCO BOARD OF SUPERVISORS
415-554-5184
Obtain copies of San Francisco ordinances.

[21] SAN FRANCISCO BAR ASSOCIATION
415-764-1616
Eligible person referred to pro bono (free) lawyers; federal poverty guidelines used to determine eligibility; referrals are primarily for family and eviction defense.

[22] SAN FRANCISCO TENANTS UNION
415-282-5525
Help in English and Spanish.

[23] CHINESE TENANTS ASSOCIATION
415-984-1460
Help in Cantonese, English, Mandarin and Toishanese.

[24] SAN FRANCISCO NEIGHBORHOOD LEGAL ASSISTANCE FOUNDATION
415-627-0200
Help in Cantonese, French, Tagalog, Mandarin, Spanish and English.

58.
[25] Poder (People Organizing to Demand Environmental Rights)
415-431-4210
Help in Spanish and English.

[26] Lead Poisoning Prevention Project - San Francisco
Information about how to protect children in your home and testing for lead (kits, on-site, laboratory, methods, etc.).
415-777-9648

[27] North Beach Tenant Association
415-775-2030
531 Bay Street, San Francisco.

Los Angeles & L.A. County

[28] Los Angeles Housing Department
Tenant & Landlord Information Line
800-994-4444

[29] Los Angeles Health Services Department
Child Health Disability Prevention Program
310-940-7985

[30] Los Angeles Health Services Department
Environment Health Administration
213-881-4000

[31] City of Los Angeles
Department of Environmental Affairs
213-580-1046

[32] Children’s Advocacy Institute
Maternal and Child Health Advocacy Project
213-749-4261

[32 A] Lead Poisoning Organizing Project
Linda Kite
(213) 222-4495
Provides information and support to parents of lead poisoned families
[33] LEGAL AID FOUNDATION OF LOS ANGELES
Community Economic Development Unit
South Central office: 213-971-4102
ask for extension 423 or ext. 422
Central Community office: 213-252-3800
ask for extension 3219

[34] LOS ANGELES COUNTY CHILDHOOD LEAD POISONING PREVENTION PROGRAM
213-738-2030

[35] CITIZENS FOR A BETTER ENVIRONMENT
Michelle Sypert, Staff Attorney
Will provide general information on lead and lead poisoning.
310-450-5192

[36] LOS ANGELES LEAD ABATEMENT PROGRAM
Will answer general questions about lead poisoning, lead in the environment and will refer people to the proper agencies.
213-738-6129

SOUTHERN CALIFORNIA CITIES & COUNTIES

[37] SAN DIEGO HEALTH SERVICES DEPARTMENT
Household Hazardous Materials Program
619-235-2111

[38] UC SAN DIEGO, WESTERN REGIONAL LEAD TRAINING CENTER
619-451-7460

SAN JOSE & SANTA CLARA COUNTY

[39] SAN JOSE HOUSING DEPARTMENT
408-277-4747
4 N. Second St., San Jose

[40] **SANTA CLARA PUBLIC HEALTH DEPARTMENT**
Child Health & Disability Prevention (CHDP)
408-299-6158
Call 800-310-2332 for Physician Referral

[41] **SANTA CLARA PUBLIC HEALTH DEPARTMENT**
Women Infant Children Program (WIC)
408-299-6180

[42] **INFORMATION & REFERRAL SERVICES**
408-345-4532

[43] **MIDPENINSULA CITIZENS FOR FAIR HOUSING**
457 Kingsley Ave., Palo Alto
415-327-1718

**BERKELEY, OAKLAND AND ALAMEDA COUNTY**

[44] **OAKLAND HEALTH & HUMAN SERVICES**
510-238-3165

[45] **OAKLAND HOUSING & NEIGHBORHOOD DEVELOPMENT OFFICE**
General Information 510-238-3344
Paint Program 510-238-3909

[46] **BERKELEY COMMUNITY DEVELOPMENT DEPARTMENT**
Housing & Redevelopment - Rehabilitation 510-644-6590
Housing Discrimination 510-644-6002

[47] **BERKELEY HEALTH & HUMAN SERVICES**
Child Health & Disability Prevention Program (CHDP)
510-644-6822

61.
[48] BERKELEY COMMUNITY LAW CENTER  
3130 Shattuck Avenue, Berkeley  
510-548-4040  
Law Center handles housing and tenants rights issues.

[49] ALAMEDA HEALTH CARE SERVICES AGENCY  
Child Health & Disability Prevention Program (CHDP)  
510-268-2670

[50] ALAMEDA HEALTH CARE SERVICES AGENCY  
Lead Abatement Hotline  
510-437-4752

[51] ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM  
2000 Embarcadero, Ste. 300, Oakland  
510-535-6700

[52] SENTINEL FAIR HOUSING  
510-836-2687

[53] HOUSING RIGHTS  
3354 Adeline, Berkeley  
510-658-8766

[54] PEOPLE UNITED FOR A BETTER OAKLAND (PUEBLO)  
510-533-0919

[55] LEAD REGISTRY SURVEILLANCE PROGRAM  
510-540-3054

SACRAMENTO

[56] SACRAMENTO HUMAN RIGHTS & FAIR HOUSING COMMISSION  
916-444-6903
[57] SACRAMENTO HEALTH & HUMAN SERVICES
Child Health & Disability Prevention Program (CHDP)
916-366-2151
Call for hours, general information and location.

[58] SAN FRANCISCO CITY HALL  
401 Van Ness Avenue, Room 400, San Francisco  
415-882-9313 (information recording)  
415-554-6821 (direct number)  
Financial District Branch Library  
685 Market, Suite 420, San Francisco  
415-882-9310

[59] HASTINGS COLLEGE OF THE LAW  
200 McAllister, San Francisco  
415-565-4750

[60] MILLS LAW LIBRARY  
415-781-2265  
220 Montgomery St., San Francisco

[61] SANTA CLARA COUNTY LAW LIBRARY  
360 N. First St., San Jose  
408-299-3567

[62] SAN DIEGO COUNTY LAW LIBRARY  
1105 Front St., San Diego  
619-531-3900

[63] SACRAMENTO COUNTY LAW LIBRARY  
720, 9th, Sacramento  
916-440-6011

[64] UNIVERSITY OF CALIFORNIA, LOS ANGELES  
You must have a photo ID and you may have to wait in line to enter.  
310-825-4743

64.
WHO WE ARE:

The Environmental Law and Justice Clinic of Golden Gate University Law School was created to assist individuals, neighborhood groups and community organizations in low income and minority communities where environmental problems are most severe. Some of the Clinic's recent accomplishments include developing "good neighbor agreements" for residents living near industrial businesses; filing lawsuits to stop toxic discharging into San Francisco Bay; representing clients opposed to the siting of a new power plant in their community; challenging air quality permits; and preparing community handbooks on environmental issues. The Clinic addresses this wide range of environmental justice issues by offering a combination of legal counseling and representation, community education workshops and policy and legislative analysis.

Printed on Recycled Paper.