

Owning Up To Ownership: Identifying Patterns of Ownership and Childhood Lead Poisoning in Providence, RI

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Objective and Summary

For a preventative lead poisoning strategy to succeed in Rhode Island, chronically evasive and non-compliant landlords must be identified and targeted for strong enforcement measures. The current enforcement of lead violations in Rhode Island is entirely address-based, and therefore agencies are unlikely to take into account systematically an owner's comprehensive record of compliance. This research demonstrates that a small number of owners of multiple properties are responsible for the safety of the housing where 20% of children with blood lead levels of 20 µg/dL or higher in Providence have lived. It is likely that violations of the law have occurred at many of these properties.

Further research is needed to identify these "repeat offender" owners conclusively. Ownership changes between 1993 and 2002 would result in the mis-assignment of responsibility for maintaining lead-safe housing if the poisonings occurred before the owner listed in the 2001 Tax Assessor's database acquired the property and if the property had been brought to lead-safe standards by the current owner. We emphasize that this list is a starting point for investigation, and in no way concludes that any particular property owner has not behaved responsibly. Findings of this research have been made available to the US Environmental Protection Agency, Region I and the RI Attorney General's Office, who have the authority to enforce lead-based paint laws in Rhode Island. Additionally, the study design and outcomes have been presented to the RI Department of Health as well as to legislators who drafted the amendments to Rhode Island's lead law that was adopted in June, 2002.

Background & Lead Poisoning Enforcement Protocol

Lead poisoning in Rhode Island continues to injure children at significantly higher rates than neighboring states, and the percentages of poisoning in Providence rank among the highest of the major cities in RI. (Source: RI Kids Count, 2001). Children under six years of age are at the greatest risk of lead poisoning due to their high rate of hand-to-mouth activity and their rapid development. Chronic lead poisoning causes impairments in cognitive functioning and acute lead poisoning can result in death. Rhode Island requires screening of blood lead concentrations for children under six, and currently tests approximately 80% of this population. (Source: Lead Poisoning in RI: The Numbers, RI Department of Health, 2002)

Although the Centers for Disease Control, the RI Department of Health and the US Environmental Protection Agency consider blood lead levels of 10 µg/dL and higher to be of concern, in Rhode Island the intervention level for abatement and enforcement requires a venous level of 20 µg/dL, or a “persistent” 15-19 µg/dL [spanning 90 days of testing].

The RI Department of Health controls the management of notices of violations, abatement, compliance and initiation of enforcement. The Health Department receives notification of the child’s poisoning level and subsequently orders a comprehensive environmental lead inspection of the child’s residence. For a variety of reasons, approximately 20% of these initial inspections never occur (Source: RI Kids Count, 2002). If the poisoned child has moved before the inspector arrives, or if the occupant of the residence refuses entrance to the inspector, the case is closed. Inspectors test for lead hazards once they have gained access to the dwelling space of a poisoned child, and if a hazard is identified, the Department of Health then issues a Notice of Violation (NOV). The owner of the dwelling has 30 days to respond and initiate a schedule for compliance. If the owner does not respond, the Department issues a second NOV, allowing ten days for the owner to respond. If no compliance results, the case then could move to the City Code Enforcement (Providence or Pawtucket only) or to the Attorney General’s Office, and the second notice of violation can be recorded with the deed.

In most cases, the enforcement process extends over a much longer period of time. The Department of Health issues only approximately 10-20% of eligible second NOVs per month. Delays in reaching compliance allow the remaining 80-90% to stay in the system, suspended between the first and second NOV (Source: Interview, Department of Health). A system of triage amongst the Department of Health, Providence Department of Building Inspection and Standards, and the Attorney General’s Office depends upon the Department of Health directing cases with second NOVs to the triage process for distribution and combined enforcement. The infrequent meetings of the triage committee and the modest number of cases referred there raises questions about the efficacy of the process leading to triage.

Several factors may delay and/or evade the enforcement process:

- Qualified violators may apply for grants and loans (i.e. from HUD), which earns them liberal time extensions for application review and completion of the abatement work.
- Locating the owner’s address to send an NOV occasionally prolongs the process, as serious discrepancies in the tax assessor’s records of address and property listings sometimes force inspectors to hand-deliver NOVs.
- Property flipping (the quick sale among self-owned or cohort realty companies) and property sales lacking legal disclosure can disrupt the enforcement process if the name of the owner changes before the second NOV can be recorded. In such cases, the process starts afresh, with the Health Department issuing a first NOV against the new owner.
- Although the Providence Department of Building Inspection and Standards has the jurisdiction to enforce lead laws as outlined in the minimum housing standards of RI, they routinely defer to the Department of Health. The Housing Maintenance and Occupancy Code for Towns and Cities in the RI General Laws, 45-24.3-10, reads:

(d) In each instance where there is reason to believe that lead-based substances are present, the enforcing officer shall confirm whether suspect substances are lead-based by arranging for a comprehensive environmental lead inspection which conforms to department of health regulations.

(e) In all instances where substances are confirmed to be lead-based by an environmental lead inspection, and there exists a lead exposure hazard, the enforcing officer shall identify necessary lead hazard reductions that must be taken pursuant to department of health regulations.

While Providence inspectors have the power to initiate a process of lead hazard reduction and the Department of Health's regulations provide for such inspections, Providence inspectors maintain that the Department of Health is responsible for all lead-related inspections (Source: Interview, staff of the Providence Department of Building Inspection and Standards). These inspectors therefore do not attempt to identify lead contamination that might be suggested by a visual inspection of cracked or peeling paint, which could easily be confirmed with a dust wipe sample.

- Given the shortage of resources available to the Department of Health, it will not inspect a dwelling without a resident child under six testing at or above the level of required intervention (20 µg/dL, or a "persistent" 15-19 µg/dL), and does not inspect other units at a property where a poisoning occurred. Should a Building Inspection and Standards inspector request a lead inspection based upon a visual assessment of likely lead hazards, the Health Department will not inspect, absent the residence of a poisoned child. Opportunities for effective prevention are lost by not capitalizing on such indicators of additional hazards.

During the period 1993-2001, 8,181 children in the state of Rhode Island tested at 20 µg/dL (venous or capillary) or higher, and 4,004 of those lived in the city of Providence. Spanning the same time period, 791 children living in the high-risk Providence housing identified in this study had elevated blood levels (EBLs) of 20 µg/dL or higher, comprising 20% of the total Providence population of children with EBLs of 20 µg/dL or higher. A simple comparison of the numbers of children poisoned versus the number of units abated indicates that many more hazardous housing units in both the Providence and the State of Rhode Island need to be remediated.

Findings

218 addresses were selected as a sample set, based on a history of poisoning [10 µg/dL or higher] of five children or more during 1993-2001. The current owners were identified by searching the digital version of the City of Providence's 2001 Tax Roll, resulting in the identification of 204 current owners of these "high-risk" properties. Of the 218 properties identified, 95 were "owner-occupied" (44%) and 123 were private-rentals (56%). For these purposes, "owner-occupied" means that the address of the property and the address of the owner in the tax roll were identical. Thirty of the owners were realty companies, and 176 of the owners were individuals. These owner's names were selected from the Tax Roll to generate lists of each owner's property holdings in Providence. The number of properties held by each owner breaks down as follows:

19 owners held 10 or more properties
22 owners held 5-9 properties
55 owners held 2-4 properties
37 owners held 1 property, but did not claim residence
71 were “owner-occupied”

Each property of the 204 owners was then linked with its associated poisoning histories from the Department of Health records. The resulting compilations listed each owner’s properties and the blood lead levels of children who have lived at these addresses from 1993-2001. These owners held a combined total of 844 properties (1374 addresses):

62.8% of properties (530; 669 addresses) had at least one child testing at ≥ 10 $\mu\text{g/dL}$ from 1993-2001

40.4% of properties (341; 380 addresses) had at least one child testing at ≥ 20 $\mu\text{g/dL}$ from 1993-2001

Based on lead testing records, 5,086 children lived at the 844 properties:

52% (2,644) of these children had a blood lead level of 10 $\mu\text{g/dL}$ or higher (1993-2001), as compared to the general population of Providence (17,603) tested from 1994-2001, which had a 25% rate of poisoning.

Of the 380 addresses that had at least one child testing at ≥ 20 $\mu\text{g/dL}$, only 66 were ever issued a lead-safe certificate. 21 children living at 16 of these 66 addresses tested at ≥ 10 $\mu\text{g/dL}$ after the date of the lead-safe certificate. Of these 21 poisoned children, nine lived in the same unit where a poisoned child had lived before. The remaining 12 children lived in a different unit at the same address, suggesting that all units in a building where a poisoned child is living should be remediated.

The purpose of this analysis was to provide a basis for holding owners of significant numbers of properties accountable for the safety of their properties. In contrast to the current practice of regulatory agencies of maintaining records only by address, this research emphasizes that the actions of property holders should be monitored comprehensively over all properties they own, not individually by address. This would allow more efficient targeting of enforcement to prevent further poisonings.

As the State of Rhode Island has a screening rate of approximately 80%, the existence of lead tests confirms the residence of a child under six at an address. Interestingly, the comprehensive property analyses identified a number of residential properties of several landlords where no child had been tested for lead. The absence of the results of any lead tests at an owner’s properties, regardless of the levels, indicated a potential pattern of discrimination against renting to tenants with children, perhaps to avoid the risk of childhood lead poisoning from substandard housing and the enforcement measures it brings.

Phases of Research

The research was completed in four phases.

Phase 1: Identifying Current Owners of High Risk Properties

A list was compiled of addresses at which a minimum of five poisoned children [≥ 10 $\mu\text{g/dL}$] lived over the span of 1993-2001. Using an electronic version of the city of Providence's 2001 Tax Roll, the *current* owners of all addresses were identified. Then each address was manually matched to a plat map to account for all included addresses:

- 1) The area of the City of Providence is represented on 125 plat maps, and each property is labeled with a lot number [i.e. a plat-lot number]
- 2) Each lot [property] can have a number of addresses (i.e. 120-128 Main Street could be 120 Main St, 122 Main St, 124 Main St and so on), and all will have the same plat-lot number.
- 3) Each Tax Roll entry includes one plat-lot number, and only one address. Thus, a large number of addresses are missing from the tax roll database.
- 4) There is no system as to which address at multi-address properties will be used in the tax roll, nor how many addresses exist at a given property.
- 5) As Health Department records are kept by address, not by plat-lot, there is no electronic method to identify if a poisoning at 120 Main occurred in the same building as 126 Main.
- 6) Therefore, each address generated from the initial compilation was found on the plat map and expanded to include all addresses located at the property.
- 7) Addresses were sorted based on plat-lot numbers to account for the listings of an entire property.

Phase 2: Comprehensive Ownership

The property holdings of each identified owner were compiled using the 2001 Tax Roll. The addresses from the Tax Roll were expanded as explained in Phase 1.

Since the ownership records were taken from 2001 tax records, and the poisoning records cover 1993-2001, a sampling of purchase dates was conducted by examining the field cards at the Providence Tax Assessor's office. The identities of the buyers and sellers and the dates of sale for thirty properties were examined as a preliminary investigation into whether the high-risk owners actually owned the properties in the study during the times of poisoning. While not necessarily representative of the full group of owners, the pilot review identified titles moving back and forth among companies owned by the same individuals or other owners of high-risk properties identified in the study.

Phase 3: Lead Poisoning By Ownership

The highest blood lead level (BLL) per child was matched to the address in the comprehensive ownership lists. The lead test results for children at each address were broken down into three categories for comparison:

- Under 10 µg/dL [not poisoned]
- 10 µg/dL to 19 µg/dL [poisoned, but not requiring environmental intervention]
- ≥20 µg/dL [poisoned and requiring intervention]

Note: The occurrence of a “persistent” 15-19 µg/dL was only instituted in mid-2001, and therefore was not relevant over most of the time period examined.

The results were grouped by the plat-lot number to examine the entire poisoning history at a property.

The identification of an owner by this process does not establish that this owner held properties at the time that a lead-poisoned child resided there. Only *current* ownership is available on the digital version of the Tax Rolls, and identification of past owners must be done by manual inspection of the field cards in the Tax Assessor’s Office. Thus it is quite possible that some owners on this list have purchased properties subsequent to the residence of a lead-poisoned child and may not be responsible for the inadequate maintenance that leads to lead-contaminated residences. However, we believe that it is highly likely that a majority of the owners identified in Phase 3 did in fact hold title to properties during the time that lead-poisoned children resided there.

Phase 4: Linking Owners

This phase sought to connect corporate and partnership owners that because of different names might appear to be separate and unrelated entities. Following the concept that a pattern of ownership should be taken into account to prevent non-compliance, if one individual owns five realty companies, the lead poisoning history at properties owned by those companies should be treated as one pattern of ownership, not five.

The names and addresses of owners with three or more properties were doubly cross-referenced in the tax roll to identify realty conglomerates. First the Tax Roll was searched for the address listed for a owner identified in Phase 1, which generated a list of other individuals or groups that receive their tax bills at the same address. Then each of the newly identified individuals and realty companies were searched again to see if they had multiple addresses in the tax roll, or if there were similarly named realty companies as well (i.e. “Phoenix Griffin Group LP” & “Phoenix Griffin Group II LTD”). Exact or highly similar names and addresses led to the compilation of 60 groups, ranked by the number of aggregate properties owned by the group. The group ranked first owned a total of 148 properties, and the group ranked last owned 3. The mean number of properties owned was 31. While this conglomerate analysis does not conclusively identify these companies as related, it does provide a listing of companies for agencies to monitor.

Again, as ownership records were taken from 2001 tax records, this evidence does not definitively identify the current owners as non-compliant with lead regulations. For instance, we learned after the research for this report was completed that at least one property owner identified by this methodology is in the business of purchasing, renovating and leasing or selling older homes. Conversely, this approach probably underrates the culpability of others. However, of the 380 high-risk addresses where seriously poisoned children lived, only 66 (9%) have been issued lead-safe certificates, which suggests that whether or not current owners held the properties at the time a lead-poisoned child resided there, many of these properties still need to be remediated. The patterns identified in the study should serve as a starting point for regulatory and enforcement agencies. These agencies are encouraged to use the information compiled to establish the extent of each owner's compliance with the law.

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Childhood Lead Action Project