

CRAIN'S CLEVELAND BUSINESS

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Landlords not rushing to comply with lead-safe law

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Michelle Jarboe/Crain's Cleveland Business

Zak Burkons of Pb Free Ohio conducts a dust-wipe test for lead at a rental house on Cleveland's West Side.

Halfway into Cleveland's rollout of a lead-safe certification mandate for rentals, fewer than 10% of units have a clean bill of health. Landlords aren't hurrying to have their properties

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Lead-testing professionals say that major apartment owners are complying, reluctantly in some cases. But many landlords, including small operators who control an estimated 60% of the city's rental stock, are either unaware of the rule or waiting to see how aggressively Cleveland enforces a [law](#) designed to protect children from being poisoned.

"Very large landlords ... they don't like it, but they realize it's the cost of business," said Zak Burkons, the owner of [Pb Free Ohio LLC](#), a busy testing business formed last year. "But for every one of them, there's 50 guys or ladies who have two units. Or five units. They're the ones that I spend a lot of time on. They need to be convinced that this is real."

Cleveland City Council passed the lead-safe ordinance in 2019, laying the groundwork for implementation starting in early 2021. The law requires residential rentals built before 1978 to be certified as safe — not free of lead, but free of hazards — before March 1, 2023.

The city set a series of quarterly deadlines, by ZIP code, to avoid overtaxing the public-sector employees handling paperwork and the private-sector testers and contractors touching properties. The first due date passed a year ago. The last is Dec. 31 of this year.

Of the estimated 100,000 rental units in Cleveland, only 11,490 have touched the process in some way, according to data from the city's building department. Those homes are spread across 2,505 structures, from houses to downtown apartment towers.

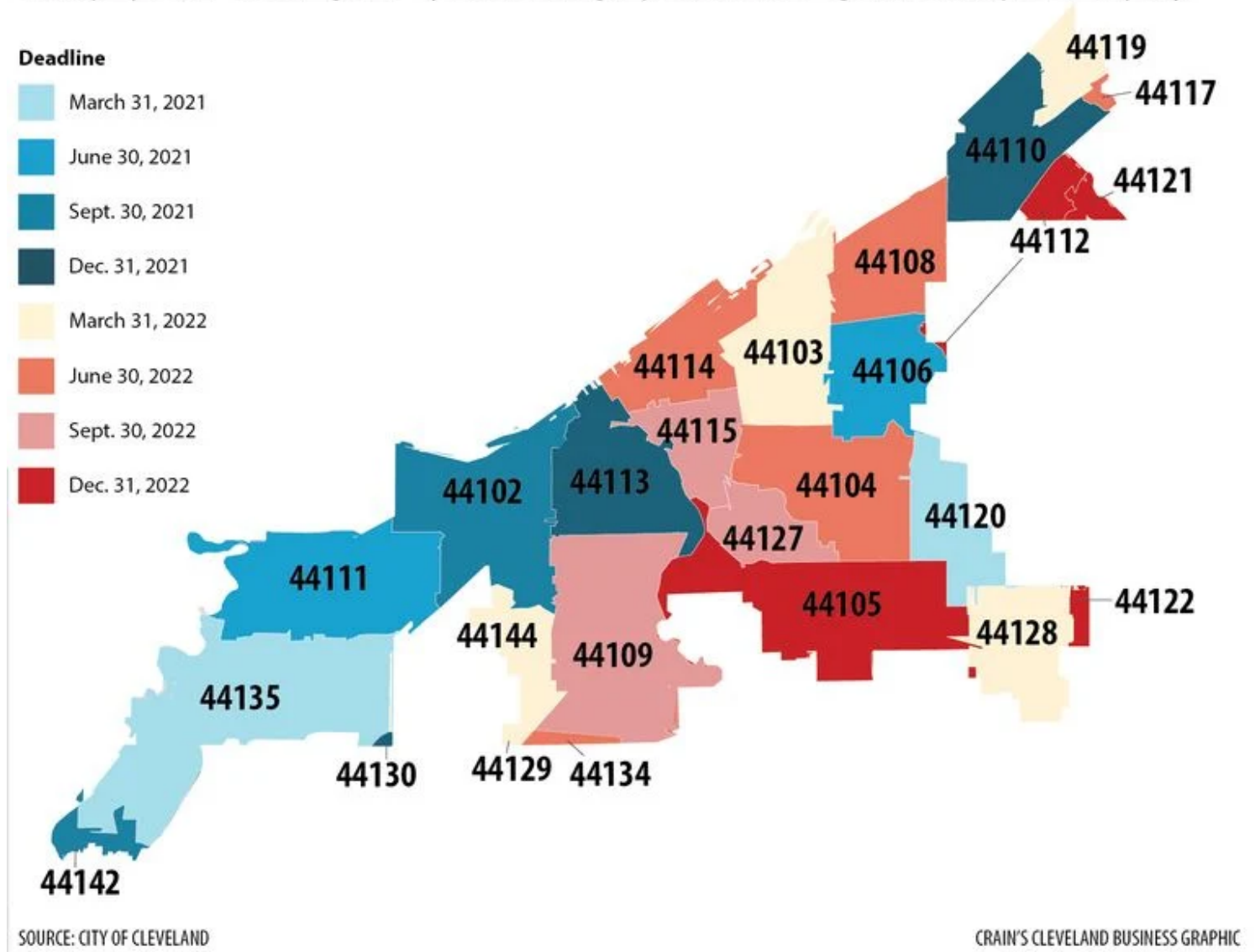
So far, 80% of those units have passed. Nearly 15% are marked as pending or exempt — unoccupied or built after Jan. 1, 1978. Only 5% have failed.

Testing professionals say most early adopters are landlords with well-maintained, often updated, properties — not houses with original wood windows and chipping paint. The challenge for the city, and a growing industry devoted to clean-up, will be tracking down and tackling those tougher cases.

"The good landlords, it's not a problem. The bad landlords, it's a problem," said Dave Meyer, president of [CTG Environmental LLC](#), a Parma-based consulting and testing firm.

Lead-safe certification requirement for rentals gradually takes effect

The city of Cleveland is midway through the rollout of its lead-safe certification requirement for residential rental properties – from single-family homes to large apartment buildings. So far, compliance is spotty.



Loans, grants and incentives

The [Lead Safe Cleveland Coalition](#), a public-private partnership focused on ending lead poisoning, has raised roughly \$114.3 million to tackle the problem over five years. More than \$50 million is coming from the Cleveland Clinic, which [announced](#) a large donation in January. The city is putting federal pandemic-recovery funds behind the effort.

Most of that money is earmarked for property owners, in the form of loans, grants and incentives. The funding also is supporting efforts to train testers and educate contractors,

who need a special certification to renovate and repair older properties under [regulations](#) from the U.S Environmental Protection Agency.

Demand for grants, of up to \$7,000, has been steady, said Matt Sattler, vice president of operations for CHN Housing Partners, a nonprofit administering the [aid programs](#). But that free money is available only to relatively low-income landlords and tenants.

The loans, topping out at \$7,500 per unit, carry no such limits. Yet there are few takers. "We're seeing a lot of landlords take a wait-and-see approach with the loan product, depending on what happens with enforcement," Sattler said.

Through nonprofit partners, the coalition also is offering incentives of \$500 per unit for properties that complete the certification process.

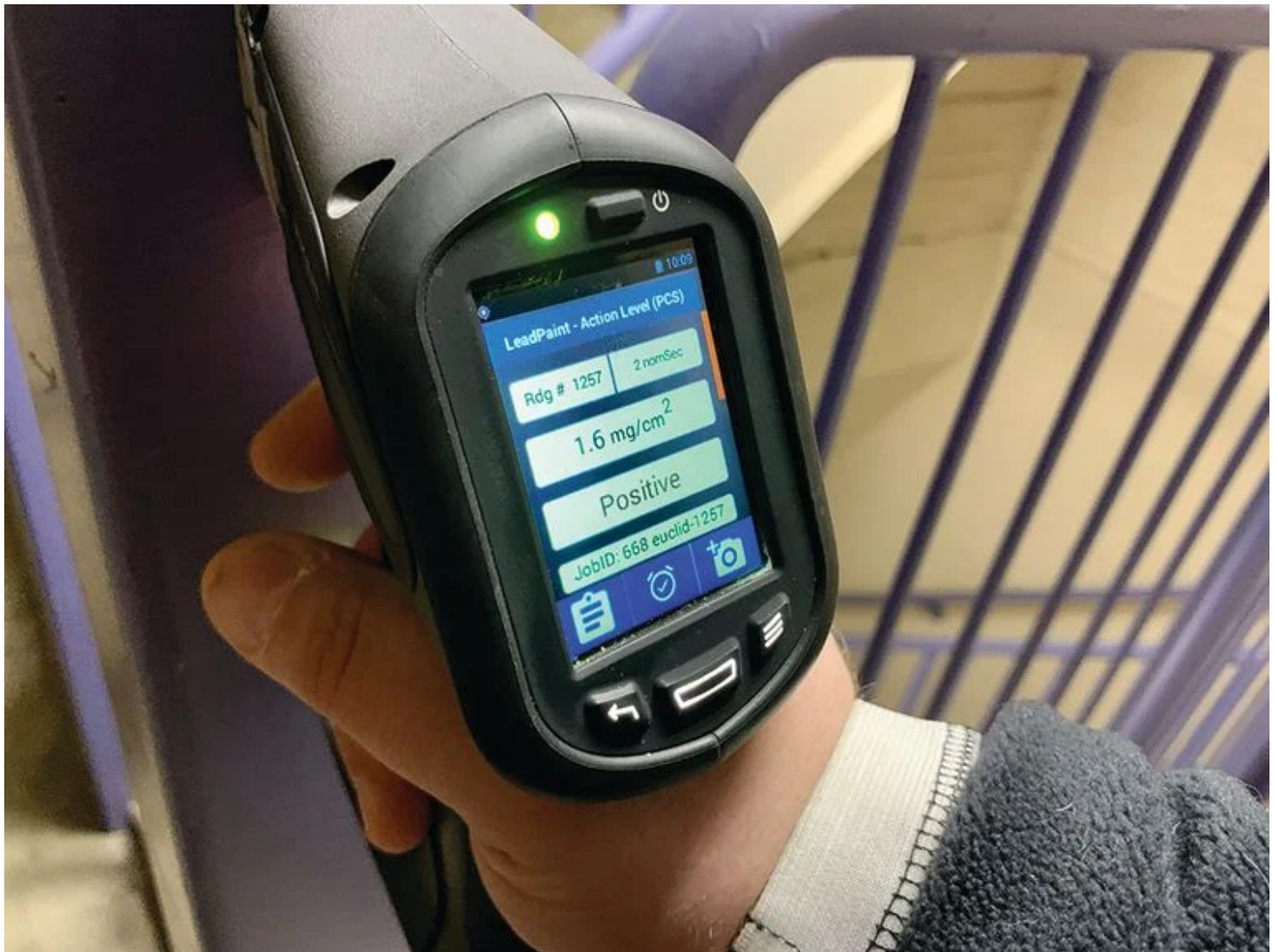
In the Mount Pleasant neighborhood, on Cleveland's southeast side, April Williams took advantage of a CHN grant and the nonprofit's crew of contractors to address hazards at her two-family home. Painting and environmental cleaning cost \$4,500 to \$5,000. That's typical for the units where CHN is working.

Williams paid \$500. The 39-year-old, a patient observer at University Hospitals, has not submitted her certification paperwork to the city. Her tenant died in January, after contracting COVID-19. Now Williams' mother is moving into the unit, rent-free.

Still, Williams is glad to know the space is lead-safe. "I don't have children there, but my mother watches kids from time to time. That's something to think about," she said.

Programs for landlords must be simple to navigate and swift to access, said Karen Paganini, president of the K&D Group Inc. and chairwoman of the Downtown Cleveland Alliance, which represents property owners.

K&D is working through certification at its Cleveland properties. The regional apartment titan is spending \$87,000 on high-tech testing to get 20-year exemptions for almost 3,000 units. That's possible only for structures where lead is absent or abated.



Michelle Jarboe/Crain's Cleveland Business

A handheld x-ray device detects lead paint on a stairwell railing at the Residences at 668 apartments in downtown Cleveland in January.

'Property owners are frustrated'

In a city replete with aging homes, where lead paint is a given, most rentals will need to be recertified every two years. They're undergoing a simpler test that involves swiping window wells, windowsills and floors for hazardous dust. The outcome of that exam hinges on thorough cleaning, including vacuuming with a high-efficiency filter.

Paganini did not expect to find lead in K&D's buildings, many of which have been gutted and restored. But Burkons, using a handheld X-ray device, turned up traces of lead in the stairwells at two historic downtown properties. The remediation bill is about \$50,000.

That's a cost a large business like K&D can bear, without using grants or loans, Paganini said. Other landlords are less well-situated, though, especially on the heels of a pandemic and eviction bans that cut into their bottom lines.

"There's a lot of these small houses that may not even be worth the cost of remediation," Paganini said. "This war chest of money needs to be disbursed."

The coalition is looking at ways to make grants more flexible and accessible, said Emily Lundgard, a senior program director at nonprofit [Enterprise Community Partners](#). She's heard feedback about the need to provide grants for window replacements, porch repairs and other projects that target common sites of lead poisoning.

"We're not here to punish people. We're here to help," said Ayonna Blue Donald, a former Cleveland building director who leads Enterprise's work across Ohio.

In investor circles, though, there is chatter about property owners who are cashing out, selling off rentals in Cleveland rather than dealing with the certification process. Burkons has talked to out-of-town landlords who recently entered the market, without realizing that they would have to pay for testing under the new law.

"Property owners are frustrated, right?" said Ami Gignac, a local mining engineer who saw a market opportunity last year and became an [RRP contractor](#) — a designation that any paid practitioner must have to disturb paint in an older home.

Now she's getting calls from landlords who have failed lead tests. And she's hearing from property owners who, certain they will fail, want to make repairs prior to testing. To meet the deep need for contractors, Gignac plans to become an EPA-certified trainer to teach other people, including property managers, lead-safe work practices.

"I really think there is a puzzle between the property owners and getting compliance," she said. "There's got to be a better way."

Housing groups don't expect certifications to jump until Cleveland starts penalizing reluctant landlords. For the last year, the building department has focused on launching the program and raising awareness, starting with outreach to owners of the 61% or so of units that are properly listed on the city's rental registry.

"It's a high priority of the building and housing department to get this right, and to do it well," said Sally Martin, who took the department's helm last month.



Michelle Jarboe/Crain's Cleveland Business

Zak Burkons of Pb Free Ohio talks to a tenant at a home on Cleveland's West Side during a dust-wipe test for lead.

Ensuring safe and affordable housing

The law gives the department the ability to issue citations, with fines attached. Landlords who don't comply could face misdemeanor charges in Cleveland Housing Court. The city has sent out early warning notices, but Martin said the new administration still is sorting through how to capture the "worst of the worst" properties.

Officials and coalition members also are watching a lawsuit in Ohio's Eighth District Court of Appeals, where an East Side landlord is challenging the [Cleveland Housing Court's](#) decision to make compliance with the lead-safe law a precursor for evictions.

Judge W. Moná Scott instituted that rule last spring. Landlords seeking an eviction must document whether a unit is lead-safe, pursuing certification or exempt.

Backed by the [Northern Ohio Apartment Association](#), the owner of Shaker House Apartments is **fighting** the rule as an overreach — and a burden unequally applied to landlords because of the city's rolling geographic deadlines for compliance.

"I've not gotten one phone call saying, 'Oh, this dirty rotten lead law,'" said Ralph McGreevy, the apartment association's executive vice president. "But I am opposed to the housing court becoming judge and jury. That's not her job. Her job is to do evictions."

Citing the litigation, Scott would not discuss the case.

But she said the rule reflects the court's role in helping to uphold city laws. The court also requires landlords pursuing an eviction to have a current rental registration.

Scott and her staff are working with property owners to allow an eviction first, followed by a lead-risk assessment, in cases where tenants won't give testers access to a unit. She's also aware that it can be difficult to safely clean up hazards in certain homes with tenants in place. "The court doesn't want to frustrate the process," she said.

The broader goal is to ensure that tenants don't have to live with lead, mold and other contaminants. "This is only going to get a lot tighter in Cleveland," Scott said, "because you have a mayor now who also wants safe and affordable housing."

Martin said the building department is not relying on the court for code enforcement. City officials and civic groups are talking daily about lead and strategies for boosting education, deploying resources and addressing a longstanding public-health crisis.

"We are not stuck doing it one way," Martin said. "We absolutely will embrace change if we feel like it's going to make this go better."

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Inline Play

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