



## **Advancing Healthy Homes & Healthy Communities A City and Countywide Summit<sup>1</sup>**

**June 19, 2014**

### **Fostering compliance with healthy housing practices: Reshaping the regulatory landscape**

#### **THE PROBLEM**

The health of homes and communities depends upon a coordinated and well-developed regulatory scheme that supports tenants and property owners, the government agencies charged with implementation and enforcement, and the multiple professions connected to housing, such as contractors, real estate agents and insurers. The Chicago and suburban Cook County regulatory landscape must more effectively address home-based factors that are a major source of health hazards and chronic ailments, particularly in low-income households.

Although multiple laws target indoor environmental hazards that create unhealthy conditions in homes and communities, the current regulatory scheme is disjointed and lacking in robust, formal, unified policies that specifically address healthy homes. Challenges posed by the current regulatory scheme include:

- The majority of laws are not preventative in nature and address hazards after the harm has occurred and the cost of repair can be very high.
- Most laws pertaining to healthy homes allow for discretionary enforcement, or lack enforcement.
- In many cases, it is unclear which government departments, including public health, environment and building and zoning, are responsible for enforcing existing laws and responding to the issue of unhealthy homes.
- The burden is placed on landlords to repair or abate conditions even when they are unwilling or financially unable to comply. Tenants rarely have the ability or right to seek legal remedies or make needed large repairs.

#### **WORKING GROUP OBJECTIVE**

The task of this working group is to identify short- and long-term objectives to meet the goal of fostering compliance with healthy housing practices in Chicago and suburban Cook County. If appropriate, there should be at least one objective related to research. For each objective, list critical actions required to achieve it. For each action, identify the necessary partners and their roles, and time permitting, benchmarks and a timeline for completion.

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<sup>1</sup> Convened by Loyola University Chicago in partnership with the City of Chicago Department of Public Health, the Cook County Department of Public Health and the University of Illinois Chicago.

## **BARRIERS**

The following factors potentially create barriers to development and implementation of an effective regulatory scheme to ensure healthy homes in Chicago and suburban Cook County:

- Proactive rental inspections, data collection systems and remediation can be expensive.
- The city and county have limited inspection staff and funding for hazard mitigation.
- Indoor environmental hazards may not be a main priority for city and county departments and agencies, the court system and the public.
- The city and county response to, and regulation of, indoor environmental hazards is often uncoordinated and divided among multiple departments, and requires multiple inspections to evaluate and cure hazards.
- Since there is no comprehensive tracking system, data on the scope, breadth, impact and location of problems is unreliable.
- Repair costs may be passed onto tenants through rent increases, reducing the affordable housing supply.
- The public perceives healthy homes as an environmental issue, not a community health issue.
- There is not enough knowledge or data about the effectiveness of model approaches, including efforts to foster compliance among property owners.
- Owners of low-income buildings and other stakeholders may be resistant.

## **SOME POSSIBLE ACTIONS**

Following are some solutions underway or under consideration in other jurisdictions.

*Education and outreach:* Consumers must be educated about indoor environmental hazards and long-term health risks associated with exposure. Housing providers and tenants need to know about available programs, guidance and mandated requirements in order to comply. Further, landlords require education on small-business management and best practices to remedy unhealthy housing conditions.

*Community involvement:* Community task forces and “block by block” campaigns address community health by placing education and accountability in the hands of community members. Any new policies addressing community health should incorporate the input of educated community members.

*Proactive rental inspections:* Inspecting rental units prior to the start of a lease term, at turnover to new tenants, or every specified few years, can spur compliance with healthy homes policies before hazards pose a threat to tenants. A city official could conduct inspections, or property owners could be given a choice of licensed professionals. At a minimum, government-funded

housing programs could inspect for all indoor environmental hazards before approving rental agreements.<sup>2</sup>

*Landlord licensing:* Landlords could be required to obtain a municipal license. Requiring such licenses would allow municipalities to maintain an accurate list of all rental property, which they could then monitor for healthy housing issues. Municipalities could also require landlords to comply with certain rules, such as healthy homes regulations and business training, to be eligible for a license. License or registration fees could help pay for such a program.

*Certification of properties as healthy:* Creating a certification process/rating system would describe past violations and compliance connected to a property, allowing prospective tenants to determine the health of a home before moving in and creating incentives to make prompt repairs. For example, the U.S. Green Building Council (USGBC) developed the LEED (Leadership in Energy and Environmental Design) rating system, which includes indoor environmental toxins. The LEED rating system is being expanded from commercial and public buildings to residences and communities. The USGBC recently created LEED for Neighborhood Development (LEED-ND), which incorporates principles related to smart growth, new urbanism and green building. Illinois was the first state to approve a LEED-ND incentive with the Green Neighborhoods Act of 2007, which provides grants to developers for up to 1.5 percent of their costs for building LEED-certified communities. There are two LEED-ND pilot projects in Chicago now.

*Coordinated response between departments:* Designating or creating a department responsible for promulgating rules, administering and enforcing healthy homes policies and clearly delineating roles of partner governmental agencies could promote successful implementation and fulfillment of responsibilities.

*Interprofessional inspection:* Interprofessional inspection teams, comprised of city inspectors, health services providers, organizers and legal services providers, could work with tenants to identify unhealthy conditions and address the problems caused by the conditions.

*No home should harm health twice:* City and county departments could track buildings and communities and require follow-up visits, inspections and repairs. Resources could be made available to assist with repairs, and penalties could be adopted to deter noncompliance.

*Uniform inspection practices and accountability:* Requiring inspectors in all departments to undergo continuing education and follow a uniform set of practices—such as moving furniture and appliances away from walls and carrying high-wattage flashlights—could help ensure that all properties are properly and thoroughly inspected.

*Healthy homes consumer support hotline and social media outlets:* Hotlines and social media sites could create forums for asking questions, receiving technical assistance to mitigate hazards, registering complaints and requesting inspections. Detailed response tracking would provide data to evaluate programs.

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<sup>2</sup> For example, the Chicago Housing Authority requires inspection of a perspective rental unit prior to signing a Housing Assistance Payment contract; however, this does not include a lead hazard inspection and units with indoor environmental hazards are often approved for use by voucher holders.

*Enforcement mechanisms:* The creation of a *rental escrow program* could strengthen the implied warranty of habitability, which assures that every rental unit is fit for living, and provides support for tenants seeking compliance with healthy homes policies. *Liens*, which are legal claims of an individual upon the property of another person to secure the payment of a debt or the satisfaction of an obligation, could be placed on properties in which severe violations are found, forcing property owners to make renovations without delay.

*Healthy homes court:* A special *healthy homes court* could be created to settle disputes related to indoor environmental hazards.

*Private right of action and remedies for tenants:* Few policies provide tenants with enforceable rights related to healthy housing. Providing tenants with a private right of action allows a tenant to rectify the situation, for example, through a lawsuit against a property owner when the landlord does not comply with healthy housing laws regardless of whether or not a government agency is delayed or focuses efforts elsewhere.

*Specific indoor environmental hazards in the law:* Current laws do not establish sanctions for explicit indoor environmental hazards, such as mold. These laws would provide tenants and property owners with specific rights that are easier to assert than generalized laws such as the warranty of habitability and landlord's duty to maintain.

*Maintenance of affordable housing:* When units cannot be brought into compliance without imposing costs upon tenants, relocation programs and supportive services could prevent further harm to health.

*Reporting requirements and uniform data tracking:* Data related to the location and extent of indoor environmental hazards must be maintained and evaluated to delineate problems and assess the effect of responses. In addition, health professionals could also be required to track and report diagnoses associated with indoor environmental hazards, such as asthma and dermatitis.