

# HOUSING CODE ENFORCEMENT

## **THE PROBLEM**

**HEALTH RISKS TO RESIDENTS AND CHILDREN:** Housing codes have long been used as a primary mechanism for preventing urban decay and the spread of preventable illnesses. In the mid-20th century, public health workers were intimately involved in code enforcement. However as medicine and sanitation methods have improved, the health community has reduced its involvement.

Inspectors today are more likely to have a construction background and tend to concentrate their efforts on structural violations, oftentimes ignoring blatant health concerns such as pests, radon, poor ventilation, moisture, and mold.<sup>1</sup> Indeed, children living in substandard housing are more likely to suffer from asthma, respiratory illness, lung cancer, and mental illness as well as an increased risk of accidental injury.<sup>2</sup> And local housing codes tend to borrow from model codes, which oftentimes fail to address important local problems like persistent pests or poor air quality.<sup>3</sup>

**EXERCISING STRICT ENFORCEMENT:** Enforcing housing codes can also cause problems for residents, particularly in low-income neighborhoods.<sup>4</sup> Code enforcement often backfires because officials require changes that are simply not economically feasible for owners and their tenants. When code enforcement officials force these changes and threaten legal or financial repercussions, families may have no choice but to abandon their home.

**REPORTING VIOLATIONS & THE THREAT OF RETALIATION:** Regardless of how comprehensive a city's housing code may be, the safety of residents may still at be risk.<sup>5</sup> Most housing codes rely primarily on reports and complaints from tenants. If tenants fear retaliation, they may not report violations. Similarly, undocumented immigrants may fear that contacting enforcement will end in deportation.

## **THE SOLUTION**

**ENFORCING HOUSING CODES:** Reasonable enforcement is the best tool for ensuring that residents are able to live in a safe and secure environment. Code enforcement policy should neither burden the tenant with repair costs nor encourage building condemnation as a solution. Instead, code enforcement should encourage a landlord or property owner to improve living conditions. If they are unwilling, the building should be sold at a discounted price to a capable owner or the city itself should repair and resell the property.

Property owners who find improvement costs prohibitive should consider making an initial investment, which can, over time, be reasonably recovered through higher rents.<sup>6</sup> Cities can also develop innovative financing for necessary but cost-prohibitive repairs, using tools such as Community Land Trusts or Housing Trust funds.

**MANDATED INSPECTIONS:** In order to remedy concerns over retaliation for reporting inadequate living conditions, cities can follow in the footsteps of **Los Angeles, CA** and **St. Louis, MO** which have mandated that inspections must occur on a regular basis even if there are no complaints about the property. Other cities such as **Rochester, NY** have mandated that there must be periodic inspections of "high-risk" housing. According to a city study, this initiative has reduced the dangers of lead poisoning in children by 90% since implementation.<sup>7</sup> Another city, **Greensboro, NC**, has adopted a Rental Unit Certificate of Occupancy Ordinance that requires all rental units to be inspected before landlords rent the property to new tenants.<sup>8</sup> It also mandates that a random sampling of units be inspected annually. This ordinance has resulted in a dramatic decrease in the number of substandard residences in the city. "By improving housing inspection, we can lower the amount of wide-spread health problems that plague low-income communities. Furthermore, ensuring a neighborhood is compliant with the housing code helps prevent a de-

crease in property value, which benefits all residents.”– Robin Powers Kinning, *Selective Housing Code Enforcement and Low- Income Housing Policy* (1992)

**TRAINING INSPECTORS TO IDENTIFY HEALTH CONCERNS:** Unfortunately, many housing inspectors are under-educated about how to identify these concerns. At the same time, inspectors primarily examine homes for problems that could, if unaddressed, get them in trouble. For example, if residents of an inspected building are injured from a collapsed ceiling or fire, the inspector could lose his job or face other repercussions. On the other hand, when a child suffers from asthma attacks based on poor ventilation, there is no negative impact on the inspector. It is critical that cities both provide better training to code enforcers and also consider a remedy for tenants who suffer from health issues attributable to housing violations.

**COMMUNITY-BASED ACTION:** State legislatures can also follow the lead of California, which enacted the Toxic Mold Protection Act of 2001, requiring that mold exposure standards be met before any real estate transaction can take place.<sup>9</sup> In Seattle, the Healthy Homes Initiative trains residents how to examine and identify triggers for child asthma, while involving community nurses, resources such as bed covers and cleaning supplies, and in-home outreach.

Other places have now modeled their own programs after **Seattle’s**. The Green and Healthy Homes Initiative in **Philadelphia** partners with community organizations to give residents the informational tools and the access they need to identify harmful environmental hazards. In **San Diego**, the City Healthy Homes Project provides direct services from city agencies to inspect and repair homes for residences with children and/or the elderly and who make less than 80% of the median wage. And the **Boston** Healthy Homes Initiative uses residents to train others about ways to protect their families from chronic health problems that could be avoided.

**COST:** While the cost of both retraining inspectors and creating new enforcement mechanisms may be of concern to local elected officials, benefits to the taxpayer may offset these costs.<sup>10</sup> Healthier buildings mean healthier communities. By improving housing inspection, we can lower the amount of wide-spread health problems that plague low-income residents. And while there may be short term costs involved with retraining inspectors to recognize certain health code violations, cities can direct the hiring of new officials towards individuals with a background in public health, thus reducing the amount of training needed.

*“Children living in substandard housing are more likely to suffer from asthma, repertory illness, lung cancer, mental illness as well as an increased risk of accidental injury.”*

–James Krieger & Donna Higgins, *Housing and Health* (2002)

## LANDSCAPE AND RESOURCES

**PolicyLink** and **The Urban Institute** have both released reports dealing with housing code enforcement in low-income housing. The **US Department of Housing and Urban Development**, or HUD, also addresses housing codes in their Public Housing Occupancy Guidebook.

## NOTES

- 1 Patrick MacRoy, Dough Farquhar, *Creating Healthier Housing Through Building Codes*, May 2009.
- 2 James Krieger & Donna Higgins, *Housing and Health: Time Again for Public Health Action*, *Am. J. of Pub. Health*, May, 2002, at 758–68.
- 3 See MacRoy & Farquhar at 2.
- 4 H. Laurence Ross, *Housing Code Enforcement and Urban Decline*, 6, 29, 29-46, *Journal of Affordable Housing & Community Development Law*, (1996).
- 5 See MacRoy & Farquhar at 1.
- 6 Robin Powers Kinning, *Selective Housing Code Enforcement and Low-Income Housing Policy: Minneapolis Case Study*, 11, 159, 159-196, *Fordham Urb. L.J.* (1992).
- 7 Orr, S. (2016, February 5). Lead poisoning still an issue in Rochester. Retrieved April 21, 2016, from <http://www.democratandchronicle.com/story/news/2016/02/05/rochester-still-has-lead-issues/79704096/>
- 8 Greensboro Housing Commission, *Healthy Homes Policy Summit, Ground-up Approach to Code Enforcement* (May, 2009).
- 9 Krieger & Higgins at 759.
- 10 Kinning at 161.