

## Spiegel Act Frequently Asked Questions

### At what point in the process can you use the Spiegel Act for enforcement purposes? Do you have a suggestion?

Once a Notice & Demand (N&D) has been issued, the Childhood Lead Poisoning Primary Prevention Program (CLPPPP) can immediately refer properties to DSS for review of families in housing units receiving rental assistance. Upon identification of housing units with an N&D receiving rental assistance, DSS can begin withholding rent on the first day of the next month.

In Monroe County, properties are immediately referred to the City of Rochester and DSS based on the issuance of the N&D; in Broome County, properties are referred once the compliance time frame has passed or if there is an indication that a property owner is non-responsive to initial efforts to facilitate compliance.

While individual programs need to work with their local DSS to determine county specific protocols related to the timing of use of the Spiegel Act, it is a powerful method to secure property owner attention. This needs to be balanced with the desire to work in cooperation with owners if they are responsive to standard enforcement protocols.

### What steps need to be taken to initiate use of the Spiegel Act in my county?

The following steps can be used to institute the Spiegel Act:

1. Review the Spiegel Act Technical Assistance Brief and PowerPoint presentation with Health Department Administration and leadership to secure internal support (available at <http://www.nchh.org/Program/NewYorkStateCLPPPPProgram/Grantee.aspx>).
2. Determine if the Spiegel Act is used by other authorities in your county including code enforcement. If there is a system in place, learn about the existing policies and procedures and data sharing protocols.
3. Meet with DSS to discuss a partnership to add Spiegel Act Rent Withholding to your toolbox of enforcement options.
4. Review with your County Attorney or legal department as needed.
5. Identify local resources that can support tenants if they become subject to retaliatory eviction such as legal aid or housing counseling programs. Consider outreach to judges that hear eviction cases.
6. Establish policies and procedures for information sharing between departments and with property owners and tenants. Clearly define roles and responsibilities. Consider adding the potential for rent withholding to your Notice and Demand language.
7. Pilot several cases to fine tune your policies and procedures. Problem solve as needed.

### How can placarding be used to advance the prevention of lead exposure?

While placarding isn't specific to utilization of Spiegel Act Rent Withholding, it is a powerful enforcement tool that can be used once a tenant moves out of a property where compliance with the Notice & Demand has not occurred.

New York State regulations allow for placarding as follows:

Chapter II Department of Health Administrative Rules and Regulations

Subpart 67-2 Lead Poisoning Control--Environmental Assessment and Abatement

Section 67-2.7 Environmental intervention and abatement -(d)--Placarding of the dwelling with the statement that human habitation is prohibited until the Commissioner or his designed representative determines that the dwelling has been abated.

Possible local regulatory authority through your city or county health or building code regulations should also be explored.

Both letters to owners and the actual placard need to be developed for implementation. Additionally, a system needs to be established to monitor placarded properties and assure that new tenants do not move into the property while the placard is in place. Further, you could consider including the potential for unit placarding as an enforcement tool in your Notice & Demand language. Resources and templates provided by Broome and Monroe Counties are located at:

<http://www.nchh.org/Program/NewYorkStateCLPPPProgram/Grantee.aspx>.

### **How can the Spiegel Act be used to enforce housing quality standards in Section 8 housing?**

Section 8 Rental Assistance is similar to DSS rental assistance, however, the Spiegel Act itself cannot be used to assure compliance with the Notice & Demand in Section 8 properties. Section 8 Rental Assistance requires that properties where families reside comply with Housing Quality Standards determined by initial and annual inspections as a condition of the subsidy. Section 8 Quality Standards (24cfr 982.401) include inspection for defective paint conditions and appropriate treatment.

Childhood Lead Poisoning Primary Prevention Program grantees are encouraged to establish relationships with Section 8 should a child residing in a property be identified with an EBL or if the housing unit is subject to Primary Prevention activities. The programs can work together to assure preventive maintenance and prompt response to Notices & Demands.

Information on Schenectady County's partnership with Section 8 has been provided as a basis for local adaptation at <http://www.nchh.org/Program/NewYorkStateCLPPPProgram/Grantee.aspx>.

### **Can the Spiegel Act be used to require owners to allow an inspection?**

The City of Rochester has legal authority for an "administrative search warrant" should a property owner or tenant refuse an inspection - Section 1-9 of the City Charter is the City of Rochester Judicial Warrant for Inspections legislation. The text of the legislation can be reached through

[www.cityofrochester.gov](http://www.cityofrochester.gov) or directly using [http://ecode360.com/28971106#./28971117?&\\_suid=14323044079490937518824068678](http://ecode360.com/28971106#./28971117?&_suid=14323044079490937518824068678).