

# Homebuyers, beware: Lead pipe problems not always required disclosure



[Catherine Reagor](#), The Republic | [azcentral.com](#) 7:36 a.m. MST June 15, 2016

*Whether a home has lead pipes or lead in the water isn't a standard disclosure for people selling homes.*

A federal mandate from the EPA requires sellers to disclose if their house has any lead-based paint. But there's no national regulation requiring homeowners to tell prospective buyers or renters if they have lead pipes or drinking-water problems due to lead, according to the EPA and the U.S. Department of Housing and Urban Development.

But homebuyers and renters may want to be more diligent, in the wake of the Flint, Mich., water crisis and problems revealed in a USA TODAY NETWORK investigation that found almost 2,000 water systems serving 6 million people nationwide have failed to meet the Environmental Protection Agency's standards for lead in drinking water. Whether a home has lead pipes or its drinking water has tested for high levels of lead isn't a standard disclosure for many people selling homes or renting them out.

While there have been recent discussions during meetings about a need for "improved disclosure requirements" on real-estate transactions, no action has been taken, said Soledad Calvino, an EPA spokeswoman.

The biggest residential real-estate group in the country is advising homebuyers to ask the right questions and research an area's water supply.

"Homebuyers with concerns about lead pipes should make their agent aware of those concerns so they can help find a home that meets the buyer's criteria," said Tom Salomone, president of the National Association of Realtors.

Salomone said buyers who have concerns about the water supply should consider reaching out to the appropriate municipal authority for a thorough understanding of the situation before the sale is complete.

## Where you buy a home matters for disclosure

Homeseller disclosure laws vary state to state: Some protect homebuyers from unknowingly purchasing a house or renting a property with lead pipe problems, others don't.

“But most require sellers to disclose if something is unsafe with the water supply,” said Michelle Lind, a real-estate attorney and CEO of the Arizona Association of Realtors.

In Arizona, homeowners notified about a problem with their water are legally required to notify the buyer, Lind said. The buyer then has 10 days to either negotiate a repair with the seller or walk away from the deal.

[In 2012, potential sewage bacteria in drinking water in the San Tan Valley area](#), a southeastern suburb of metro Phoenix, caused some home sales to stall, she said. And high levels of arsenic in some Arizona communities in past years led to required disclosures to homebuyers.

But Lind said she was not aware of any lawsuits or issues with home sales in Arizona due to lead water pipes.

In 1978, the federal government banned the use of lead paint and pipes. The East and Midwest have most of the U.S.’ oldest homes built before the law. Many homes in western states were built after the lead pipe rule so there aren’t as many potential problems for homebuyers.

- In Michigan, homesellers are required to fill out a standard disclosure form that’s a checklist about the condition of the home. One question asks if the home’s water has been tested and if so, what were the results. Another question is about environmental issues with the house.
- Buyers in Massachusetts can ask the seller specific questions about the home’s condition and potential problems and hire a home inspector, but the seller does not have to voluntarily disclose if not asked.
- In Wisconsin, homesellers are required to provide buyers a real-estate condition report with multiple questions about potential environmental problems, including water.
- In Ohio, homesellers must provide buyers with a disclosure form that is several pages long and asks detailed questions about everything from termites to hazardous materials. It requires sellers to disclose information they know about the quality of water in their home.

“Seems like a new disclosure law for lead pipes is likely coming down the pike, given what’s happened in Flint,” said national real-estate expert and New York broker Brendon DeSimone. “Disclosures typically come as a result of something like this, a lawsuit or other serious harm. I imagine that lead paint wasn’t on anyone’s radar prior to the disclosure requirement.”

## Buyers beware and inspect

In most states with strong home-sale disclosure laws, homebuyers can sue the former owners for intentionally not disclosing problems they knew about. But if a homeowner isn't aware of a problem, even if it has existed for several years, they aren't liable in most cases.

For example, if a buyer purchases a home and months later finds out it has termites or mold, they must prove the problem was pre-existing *and* that the seller knew about it. That's not easy to do.

It is easier to prove if a home is in a neighborhood with highly publicized water issues like in Flint, Mich.

DeSimone advises homebuyers with concerns about lead issues to hire an inspector to test the water and the house's pipes.

Lawsuits have been filed this year by residents with high levels of lead in their water in both Flint and Chicago. So far, homeowners are suing municipalities for these problems. Suits involving homebuyers suing sellers for not disclosing problems with lead in a house's water don't appear to be on the rise.

"A lot of homeowners own houses with lead pipe and water problems, and no one disclosed the problems to them when they bought," said Robert Bowcock, a veteran water engineer who works with environmental activist Erin Brockovich. "Why should those homeowners be liable for \$40,000 plus to put in new pipes? Is the lender liable? The nation's water problem is becoming an economic problem."

## Water and economic crisis

[Flint's water crisis](#) is so well-known that the first questions many buyers or renters there ask is whether the house or apartment has a filtration system, and then how little can they pay.

"I am very angry about how we got to this with our water," said Kerry Jefferson, a Flint real-estate agent and homeowner. "The only serious homebuyers here now are investors who want a bargain."

Jefferson listed her Flint home for sale last fall, weeks before the city's water problems erupted publicly. She wanted to sell and move to a bigger home in a suburb of her

hometown. Jefferson's asking price was \$48,000, but after receiving no offers for more than \$20,000, she took the house off the market earlier this year.

Jefferson said she drank bottled water while pregnant with her 19-month-old son Charlie because Flint's water "smelled like chlorine long before we found out about the lead." Her brokerage Keller Williams bought Jefferson a \$2,000 water filtration system in March.

Flint's water crisis is more than a health issue: [Home values have fallen](#).

Homeowners like Jefferson, who had been waiting for the housing market to rebound from the crash, are stuck and can't sell for a profit.

Government-owned mortgage giants Fannie Mae and Freddie Mac requires lenders in Flint to ask for additional environmental inspections of homes and include water problems in appraisals. That has led to fewer mortgages being approved.

"When people can't sell their homes because of environmental problems, that becomes an economic issue," said Brockovich. "If a homeowner can't sell because their water poses significant health risks, and the house is taken back by the lender, then who is liable for the cleanup and the problem?"

Investors are buying most of the Flint homes selling now for bargain prices and paying cash. Many are being turned into rentals.

There's no federal requirement for informing renters about whether a home has lead pipes or has tested high for lead in the drinking water, according to HUD and the National Apartment Association.

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