



**MATTIONI**  
COUNSELORS AT LAW

# *Newsletter*

*Volume 10* [www.mattioni.com](http://www.mattioni.com) *June, 2013*

---



---

The Lead Paint Disclosure and Certification  
Law is Now in Effect

## Articles



---

### In this Newsletter

**The Lead Paint Disclosure and  
Certification Law is Now in Effect**

~and~

**Disposition of Abandoned  
Property at the Termination of a  
Lease**

By: Michael Mattioni and Christian Johnson

At the end of 2011, Philadelphia City Council passed the [Philadelphia City Ordinance 100011-A](#), colloquially referred to as the “Lead Paint and Certification Law,” which came into effect on December 21, 2012. The ordinance will require many residential landlords to substantially modify the way they do business moving forward.

As an initial matter, the ordinance is not applicable to residential landlords who own or operate housing units that: (1) were built after March 1978; (2) are owned or subsidized by the Philadelphia Housing Authority (PHA); (3) qualify as Section 8 housing; (4) are exclusively rented to college students; and (5) are not rented to households who have or will have children 6 years or younger reside therein during the length of the lease.

Under pre-existing federal law, residential landlords and tenants are obligated to sign a lead disclosure form that identifies the risks associated with lead poisoning to young children and pregnant women. Furthermore, such landlords are also required to disclose the presence of known lead-based paint in the housing units and provide to prospective tenants a pamphlet entitled “Protecting Your Family From Lead in Your Home.”

Under the ordinance, residential landlords

~and~

## **Benefit Corporations**

**Law Clerks Join Mattioni this Summer in a Long Standing Tradition**

As it has been a long standing tradition at the firm, Mattioni, Ltd. has hired two law clerks for the summer of 2013. The more senior law clerk is Josh Kobylarz, who has just completed his second year at The Beasley School of Law at Temple University. Josh is honored to serve on Law Review. Anna Haslinsky has just completed her first year at Villanova Law School. Both law clerks will be provided exposure to the various practice disciplines of law in which the firm is involved.



**Meet Our Newest Attorney  
Christian T. Johnson**

Mr. Johnson’s practice is concentrated in handling admiralty and maritime, insurance, and commercial litigation matters. Mr. Johnson graduated *cum laude* from Tulane University School of Law, and received nine CALI awards in recognition of top exam score honors in nine separate classes. While a member of the Admiralty L.L.M program at Tulane Law School, Mr. Johnson graduated first in his class and received the Edward A. Dodd Award. During law school, Mr. Johnson worked as a law clerk for Herman, Herman, Katz & Cotlar, Capitelli & Wicker, and Gertler, Gertler,

covered by the ordinance are also required to have their housing units inspected by a certified lead paint risk assessor and declared “lead safe” or “lead free”. Thereafter, the landlord must disclose to their prospective tenants a certificate indicating that the housing unit qualifies as lead free or lead safe. The “lead safe” certification must have been acquired no more than two years prior to the effective start date of the lease. There is, however, no time limit for acquiring a “lead free” certification.

The certification must be signed by the tenant and returned to the City of Philadelphia’s Department of Public Health. Additionally, tenants have the right to conduct an independent inspection of the housing unit before the beginning of the lease term and must be provided notice of their right to inspect the housing unit for deteriorating paint before and during the lease term. Tenants have ten (10) days from the commencement of their lease term to conduct such independent inspections. If they fail to have such an inspection, they are deemed to have waived the right to do so.

A housing unit is deemed “lead free” where “the interior and exterior surfaces of a property do not contain any lead-based paint and the property contains no lead-contaminated soil or lead contaminated dust.” To be deemed “lead safe”, the housing unit must be “free of a condition that causes or may cause exposure to lead from lead-contaminated dust, lead contaminated soil,

Vincent & Plotkin. Mr. Johnson also externed as a judicial clerk at the Louisiana Fifth Circuit Court of Appeal for the Hon. Fredericka H. Wicker and at the Twenty-Fourth Judicial District Court with the Hon. June Berry Darenburg and the Hon. Hans J. Liljeberg.

---



**Michael Mattioni, Esquire can be contacted at**  
[mmattioni@mattioni.com](mailto:mmattioni@mattioni.com) or 215-629-1600.

---

### ***Have You Filed for Your Homestead Exemption?***

**You could save money on your Real Estate Taxes.....Do you own your home and live in it in Philadelphia? Then you are eligible to apply for the Philadelphia Homestead Exemption.**

[Click here for more information and the on-line application](#)

deteriorated lead-based paint, deteriorated presumed lead-based paint, or other similar threat of lead exposure due to the condition of the property itself.”

Because the ordinance broadens the definition of lead free to include lead-contaminated soil and lead contaminated dust, “lead free” certifications obtained before the effective date of the ordinance will no longer be effective. In addition, most properties in the city with lead-based paint are not free of lead-based paint hazards. Therefore, as to these properties, owners will have to institute lead remediation or intermediate control measures, as determined by the risk assessor, before a "lead safe" certification will be issued certifying the property as "lead safe".

Any person who fails to comply with the ordinance shall be subject to a fine or penalty of no more than \$300 to \$2,000 per offense, and/or by imprisonment not exceeding ninety (90) days for each offense, and each day of non-compliance constitutes a separate offense.

This article provides general information regarding the Lead Paint and Certification Law. Every situation is different, and anyone with questions about the Lead Paint and Certification Law should seek advice from appropriate professionals.

*Christian Johnson is an associate in the Philadelphia office of the law firm Mattioni, Ltd.*



## OFFICES

### PENNSYLVANIA

399 Market Street, Suite 200  
Philadelphia, PA 19106  
Telephone (215) 629-1600  
Fax (215) 923-2227

### NEW JERSEY

1316 Kings Highway  
Swedesboro, NJ 08085  
Telephone (856) 241-9779  
Fax (856) 241-9989

## PRACTICE AREAS

- [ADMIRALTY AND MARITIME](#)
- [BUSINESS, FINANCE, AND CORPORATE](#)
- [CIVIL LITIGATION](#)
- [EMPLOYMENT AND CIVIL RIGHTS](#)
- [ENVIRONMENTAL](#)
- [ESTATE PLANNING, TRUSTS, AND ESTATE ADMINISTRATION](#)
- [INSURANCE](#)
- [LONGSHORE & HARBOR](#)

*Mr. Mattioni is the president of the law firm Mattioni, Ltd., where he practices in tax, business, real estate development, land use and zoning areas of law.*



### **Disposition of Abandoned Property at the Termination of a Lease**

**By: Michael Mattioni, Esquire**

Until recently, the Landlord and Tenant Act of 1951 had been silent as to how to dispose of property abandoned by a tenant at the end of a lease term. This has caused problems for both landlords and tenants as there had been uncertainty with how to handle abandoned property at the end of a lease term. The Landlord and Tenant Act was recently amended and new section 250.505a was created, titled "Disposition of Abandoned Personal Property."

### WORKERS' COMPENSATION ACT

- WORKERS' COMPENSATION CLAIMS
  - REAL ESTATE
  - PERSONAL INJURY
- 

### **MEET OUR ATTORNEYS**

- JOSEPH F. BOUVIER
  - RONALD R. DONATUCCI
  - STEPHEN J. GALATI
  - BRIAN T. GUTHRIE
  - CHRISTIAN JOHNSON
  - EUGENE MATTIONI
  - JOHN MATTIONI
  - MICHAEL MATTIONI
  - PHILLIP A. McFILLIN
  - JENNIFER POPELACK
  - ANDREW H. QUINN
  - STEVEN F. REILLY
  - JOSEPH STRAMPELLO
  - DAWN M. TANCREDI
  - GEORGE R. ZACHARKOW
-

This new section provides needed guidance to landlords and tenants regarding the proper disposition of property at the end of a lease term. It provides safeguards so that landlords who follow the Act will be permitted to dispose of property without fear of claims by tenants that their property was improperly disposed of; it provides tenants certainty with respect to property that may be left behind at the conclusion of a lease term, ensuring that it will not be improperly disposed of by a landlord.

The Act requires tenants to remove all personal property upon relinquishing possession of a property, which is when there is execution of an order of possession in favor of a landlord, or the tenant has vacated the premises, removed substantially all of their property and provided landlord a forwarding address.

Once the tenant relinquishes the premises, the tenant has 10 days to contact the landlord regarding the tenant's intent with respect to any remaining property at the premises. If the tenant notifies the landlord during the 10 day period of their intent to retrieve the property, the landlord shall retain the property for 30 days at a site of the landlord's choosing. If the tenant fails to notify the landlord during the 10 day period, the landlord may dispose of the abandoned property.

If the tenant fails to retrieve the property after the 30 day time period, the landlord is free to dispose of the property. The landlord is permitted

**Attorney Advertising**  
**Mattioni Ltd © 2013**

---

**Disclaimer**

*The content of this Newsletter has been prepared by Mattioni, Ltd. for informational purposes only and should not be construed as legal advice. The material in this Newsletter is not intended to create and receipt of it does not constitute, a lawyer-client relationship, and readers should not act upon it without seeking professional counsel.*

---

to sell the property and charge the tenant the reasonable cost of removal and storage of the property.

In the event that tenant retrieves the property after the 10 day period, the tenant is required to reimburse the landlord the removal and storage costs incurred in safeguarding the property.

The Act provides certainty to landlords and tenants regarding the disposition of personal property at the end of a lease term. If the parties comply with their obligations set forth in the Act, they should be able to dispose of property without fear of future claims regarding the disposition of the property. This is especially helpful for landlords, who previously were unsure of how to address personal property left behind by tenants at the end of a lease term, if the required notices are timely sent, landlords will be able to avoid future liability for making improper decisions about the status of the property left behind.

Tenants will also have the assurance that any property mistakenly left behind at the conclusion of a lease will not be mistakenly disposed of by a landlord. They will receive notice and provided an opportunity to retrieve their property. There is now clear guidance for all parties to address the issues presented.

This article provides general information about the newly adopted amendment to the Landlord

and Tenant Act, “Disposition of Abandoned Personal Property.” Every situation is unique and anyone with questions regarding the amendment should contact an attorney or other professional to discuss their situation.

*Mr. Mattioni is a shareholder in the Philadelphia office of the law firm Mattioni, Ltd., where he practices in the tax, business, real estate development, land use and zoning areas of law.*



**Benefit Corporations**  
By: Michael Mattioni, Esquire

Pennsylvania recently became the 15<sup>th</sup> state to add a new form of business entity called benefit corporations. Benefit corporations allow For Profit Corporations to integrate social responsibility principles in the charter of a corporation and not run afoul of the basic purpose of the For Profit Corporations, which is to maximize profit and return to shareholders. Benefit corporations allow the modifications of directors’ fiduciary duties to consider socially responsible interests in addition to maximizing profits without the constraints faced by tax exempt entities that prohibit activities that are done solely to generate profits. The benefit corporation became a permitted business

enterprise in January, 2013.

Benefit corporations are similar to For Profit Corporations. A benefit corporation may be taxed as C corporation or S corporation if they meet the criteria. Benefit corporations have general corporate purposes, like traditional corporations, and also a corporate purpose to pursue a general public benefit. Benefit corporations may also pursue a specific public benefit, such as improving human health, preserving the environment or improving economic conditions.

Benefit corporations are required to have directors consider the impact of their decisions on workers, community and the environment. Benefit corporations also require the directors to issue an annual benefit report that assesses the corporation's social and environmental performance against a third party standard.

Benefit corporations are governed by 15 Pa.C.S. §§ 3301 et. seq. They are formed by filing Articles of Incorporation in the same manner as any other corporation. The articles of incorporation must state the general public benefits as well as the specific public benefit, if desired.

The law provides that existing corporations may decide to become benefit corporations. They must have approval of two-thirds of all or each

class of shareholders to do so and amend their articles of incorporation to conform to the requirements of the Benefit Corporation Law.

Benefit corporations must also have a Benefits Director. The Benefits Director prepares the required annual report and gives the opinion about whether the corporation has met its general public benefit and if required, its specific public benefit. If the general public benefit has not been met, the Benefits Director must explain why and also state what changes are planned to meet the general public benefit goal.

The main purpose of a benefit corporation is to allow a corporation to have a purpose beyond producing profits to shareholders and to provide Directors liability protection for acting for the public benefits, possibly to the financial detriment of the shareholders.

This article provides general information regarding benefit corporations and is not intended to provide legal advice regarding benefit corporations. This article does not address specific issues or circumstances regarding benefit corporations. Anyone with any questions or who is seeking information about a benefit corporation should seek advice from appropriate professionals.

*Mr. Mattioni is the President of the law firm Mattioni, Ltd., where he practices in the tax, business, real estate development, land use and*

*zoning areas of law.*

[forward to a friend](#)

*Copyright © 2013 Mattioni, Ltd., All rights reserved.*

[newsletter sign up](#)

**Our mailing address is:**

Mattioni, Ltd.  
399 Market Street  
Suite 200  
Philadelphia, PA 19106

[Add us to your address book](#)



[unsubscribe from this list](#) | [update subscription preferences](#)