

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

STATE OF RHODE ISLAND; :  
PETER F. NERONHA, in his :  
capacity as Attorney General of the :  
STATE OF RHODE ISLAND; and :  
DR. NICOLE ALEXANDER-SCOTT, :  
in her capacity as Director, RHODE :  
ISLAND DEPARTMENT OF HEALTH :  
Plaintiffs, :

C.A. No. PC-2021-

v. :

CHEANG’S REALTY, LLC and :  
ELAINE C. PROEUNG :  
Defendants. :

**COMPLAINT AND PETITION FOR ENFORCEMENT OF  
COMPLIANCE ORDERS AND FOR DECLARATORY RELIEF**

**A. PRELIMINARY STATEMENT**

1. This matter arises as a result of Cheang’s Realty, LLC (“Cheang’s Realty”) and Elaine C. Proeung’s (hereinafter collectively “Defendants”) failure to comply with numerous lead hazard notices of violation that have, by operation of law, become compliance orders (“Compliance Orders”) of the Rhode Island Department of Health (“RIDOH”). The Defendants own and/or operate two multi-family income properties, one located at 21 Rosedale Street, Apartment 3, in Providence, Rhode Island (“the Rosedale property”) and another located at 750/752 Dyer Avenue, Apartments 2 and 3, in Cranston, Rhode Island (“the Dyer property”). The RIDOH Compliance Orders were issued after three children living in the properties tested positive for elevated blood lead

levels (“EBLL”) and RIDOH inspections found the presence of lead in violation of state law (“lead hazards”) in the children’s homes.<sup>1</sup>

2. The Compliance Orders became effective as final agency orders by operation of law following the Defendants’ failure to request an administrative hearing in response to three second Notices of Violation (“NOV”) issued by RIDOH. *See* R.I. Gen. Laws § 23-24.6-23; 216-RICR-50-15-3.19.11.
3. The violations outlined in these NOVs risk the health of the properties’ tenants, particularly children.
4. RIDOH is alerted by health care providers when children are tested for lead poisoning during their routine pediatric check-ups. In the event that a child tests positive for lead poisoning, RIDOH then categorizes each positive test by the severity of the poisoning, either a blood lead level (“BLL”) below 5 micrograms per deciliter ( $\mu\text{g}/\text{dL}$ ), a BLL between 5 and 9  $\mu\text{g}/\text{dL}$ , or a BLL over 10  $\mu\text{g}/\text{dL}$ . The higher the BLL, the more severe the lead poisoning, with any BLL over 5  $\mu\text{g}/\text{dL}$  being considered an elevated blood lead level.
5. According to the CDC, no safe blood lead level has been identified; therefore, any level of lead in the blood is harmful to children. Lead exposure – even at low levels – damages the brain and nervous system, increases a child’s risk of developing permanent learning disabilities, reduces concentration and attentiveness, and causes behavioral problems that may extend into adulthood. Damage to a child’s brain and nervous

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<sup>1</sup> To safeguard the children’s identities and protected health information this Complaint does not include the identities of the poisoned children or information that could enable an individual to surmise the identities of the poisoned children.

system from lead exposure can also cause future hearing and speech complications. Lead poisoning can affect nearly every system in the child's body.

6. Children are at the greatest risk of lead exposure in older homes that have lead paint. Children are most often exposed to lead paint when they place in their mouths objects or their own fingers that have lead particles or dust on them. Lead dust particles can come from the soil outside the home, from damaged paint inside the home, or from the friction of lead-painted surfaces like windows or doors. Child lead poisonings are completely preventable with the removal of lead hazards. For this reason, the Rhode Island General Assembly enacted a statutory framework to ensure that lead hazards are remediated by property owners in this state.
7. In pertinent part, pursuant to R.I. Gen. Laws § 23-24.6-1 *et seq.*, when RIDOH is notified that a child has been lead poisoned, it will inspect the child's home for lead hazards. If lead hazards are found, RIDOH will issue a NOV to the property owner with an order that the lead hazards be remediated within 30 days. If the property owner does not provide evidence that the lead hazards have been remediated, RIDOH will issue a second NOV 90 days after the issuance of the first NOV. Should the property owner fail to comply with this second NOV within 30 days, the NOV becomes a final Compliance Order, and the Attorney General, after notifying in writing the property owner of their obligations under law and the potential penalties for continued violations, may bring a civil action to bring the property into compliance and seek other relief. *See* R.I. Gen. Laws § 23-24.6-23.

**B. PARTIES**

8. Peter F. Neronha is the Attorney General of the State of Rhode Island (“Attorney General”). The Attorney General is the State of Rhode Island’s chief law enforcement officer and is authorized to pursue this action by among other sections of the General Laws of Rhode Island those cited herein.
9. Dr. Nicole Alexander-Scott is the Director of RIDOH. RIDOH is authorized to pursue this action by various sections of the General Laws of Rhode Island cited herein.
10. Defendant Cheang’s Realty is a Rhode Island corporation and an owner and/or operator of rental income-producing properties. At present, the Rhode Island Secretary of State lists Cheang’s Realty’s corporate status as revoked as of December 29, 2020.
11. Defendant Elaine C. Proeung is listed as the Resident Agent for Cheang’s Realty. Her address as the Resident Agent is the same as that listed for Cheang’s Realty’s Principal Office: 6 Welfare Avenue, Cranston, Rhode Island.

**C. JURISDICTION**

12. Subject matter jurisdiction in this case is properly conferred in this Court pursuant to R.I. Gen. Laws §§ 8-2-13, 8-2-14, and 23-24.6-23(c)(1).
13. Personal jurisdiction over the Defendants in this case is properly conferred in this Court based on the Defendants’ presence within the State of Rhode Island.
14. Venue is properly placed in this Court pursuant to R.I. Gen. Laws § 9-4-3.

**D. FACTS**

**The Dyer Property**

15. The Dyer property is a multi-family home with three units. The property was built in the 1920s.

16. Following a child's routine testing for lead poisoning by a health care provider, RIDOH received notice from the health care provider that a child who resided in Apartment 2 in the Dyer property had an EBLL.
17. In response to this child's lead poisoning, RIDOH conducted an inspection of Apartment 2.
18. The inspection found lead paint hazards in all nine rooms of Apartment 2, including a child's bedroom. The exterior of the home, including the garage, also contained evidence of lead hazards.
19. Following another child's routine testing for lead poisoning by a health care provider, RIDOH also received notice that a different child who resided in Apartment 3 of the Dyer property had an EBLL.
20. In response to the child's lead poisoning in Apartment 3, RIDOH conducted an inspection.
21. The inspection found lead paint hazards in eight rooms of Apartment 3. Furthermore, the kitchen tap water was found to contain a significantly hazardous amount of lead. This inspection also evidenced that the exterior of the home, including the soil and porch, contained lead hazards.
22. At the time of the lead poisoning of the children at the Dyer property, the property was not owned by Cheang's Realty. However, the property owners at that time failed to remediate the lead hazards discovered upon RIDOH's inspection.
23. Defendants purchased the Dyer property from the prior owners in 2013.
24. At the time of the Defendants' purchase of the Dyer property, the existing lead hazards identified in Apartment 2 and Apartment 3 had still not been remediated.

25. At the time of purchase, Defendants had notice of the existing, un-remediated lead hazard violations as the second NOV's sent to the prior owners had been recorded as a lien on the property by RIDOH.
26. After Defendants purchased the Dyer Property, RIDOH issued new NOV's for each apartment to Cheang's Realty on May 13, 2015, to ensure that Cheang's Realty was properly notified of the extant lead hazards. After Defendants failed to remediate the lead hazards, RIDOH issued new second NOV's for each apartment to the Defendants on January 21, 2016.
27. Both the first NOV's and second NOV's for Apartment 2 and Apartment 3 of the Dyer property allege violations of the following laws:
  - a. Lead Poisoning Prevention Act (R.I. Gen. Laws § 23-24.6);
  - b. Rules and Regulations for Lead Poisoning Prevention; and the
  - c. Housing Maintenance and Occupancy Code (R.I. Gen. Laws § 45-24.3).
28. Within fifteen (15) days of receipt of both of the first NOV's, the Defendants were ordered to submit to the Rhode Island Department of Health documentation of a reasonable effort to contract with a Rhode Island Licensed Lead Hazard Reduction Contractor, or make a written request for an extension.
29. Within thirty (30) days of receipt of the second NOV's, the Defendants were ordered to correct the outstanding violations through a Rhode Island Licensed Lead Hazard Reduction Contractor or request an administrative hearing to contest the issuance of the second NOV's.
30. As of July 30, 2021, as a result of extensive negotiations with the Office of the Attorney General and RIDOH – and after years of dangerous noncompliance creating significant

health risks for their tenants – the Defendants have made the necessary improvements to bring the Dyer property into full compliance, as evidenced by RIDOH inspections that resulted in the issuance of a Certificate of Conditional Lead-Safe Status by RIDOH on October 4, 2021.

31. However, Defendants have not provided all of the documentation showing that they complied with RIDOH's requirements to obtain proper certification and/or licensing to perform lead remediation or abatement, or that a certified individual or firm with the proper licensing was hired to perform this work.
32. Pursuant to 216 R.I. Code R. § 50-15-3.16.1, individuals with proper certification and licensure are required to complete lead hazard reduction activities to ensure that the work is done according to lead safe work practices. Following these work practices is essential to ensuring the integrity of the lead repair, as well the safety of individuals who may otherwise be exposed to lead during the repair process.
33. Even though Defendants have finally made the Dyer property lead safe after a protracted period of noncompliance, they have failed to pay any penalties that accrued due to their significant lead hazard violations.

#### **The Rosedale Property**

34. The Rosedale property is a multi-family home with three units. The property was built in 1930.
35. Following a child's routine testing for lead poisoning by a health care provider, RIDOH received notice from a health care provider that a child who resided in the Rosedale property had an EBLL.

36. In response to the child's lead poisoning at the Rosedale property, RIDOH conducted an inspection.
37. The inspection found lead hazards in the property's kitchen tap water and lead dust inside the property. Furthermore, the inspection found lead paint hazards in seven rooms in the property, including a child's bedroom, the living room, kitchen, and bathroom. The exterior of the home and soil also contained evidence of lead hazards.
38. In response to the inspection report of lead hazards throughout the Rosedale property, RIDOH issued its first NOV, which also contained a copy of the Comprehensive Environmental Lead Inspection Report ("the Report") which detailed the lead hazards contained on the property. The Report was issued directly to the Defendants.
39. After the Defendants did not comply with the first NOV, RIDOH issued its second NOV to them.
40. Both the first NOV and second NOV alleged violations of the following laws:
  - a. Lead Poisoning Prevention Act (R.I. Gen. Laws § 23-24.6);
  - b. Rules and Regulations for Lead Poisoning Prevention (216 R.I. Code R. § 50-15-3); and the
  - c. Housing Maintenance and Occupancy Code (R.I. Gen. Laws § 45-24.3).
41. Within thirty (30) days of receipt of the first NOV, Defendants were ordered to:
  - a. Provide RIDOH with a copy of the Lead Disclosure Form signed by the current tenants of the property indicating they received a copy of the Report and the NOV; and



- b. Hire a licensed lead contractor to perform all lead hazard reductions to correct all of the violations found in the Report and contact RIDOH to schedule a clearance inspection at that time; or
  - c. Notify RIDOH of their enrollment in the Lead Safe Providence Program or RI Housing Lead Safe Homes Program; or
  - d. Call RIDOH to schedule a site consultation and perform approved temporary lead hazard control measures, and submit a written request for an extension to the 30-day compliance period; and/or
  - e. Call RIDOH to schedule a site consultation, become a certified Lead Renovator and Lead Revocation Firm, and submit a written request for a variance to perform lead hazard control to correct the violation.
42. Within thirty (30) days of receipt of the second NOV, the Defendants were ordered to correct the outstanding violations through a licensed lead contractor or request an administrative hearing to contest the issuance of the second NOV.
43. In addition to failing to remediate the extant lead hazards in response to the first and second NOVs, the Defendants also failed to respond to a notice of unsafe levels of lead in drinking water (“water NOV”).
44. According to the water NOV, the property’s drinking water sample contained lead levels in excess of the 15 parts per billion drinking water standard established by the U.S. Environmental Protection Agency and RIDOH’s Rules and Regulations for Lead Poisoning Prevention.
45. The water NOV required the Defendants to provide tenants with bottled water for drinking and cooking because of the lead hazards in the property’s drinking water.

Furthermore, the Defendants were required to label all taps as “Lead Warning: Do not use for drinking or cooking” in the primary language of the occupants.

46. As of July 30, 2021, as a result of extensive negotiations with the Office of the Attorney General and RIDOH – and after years of dangerous noncompliance creating significant health risks for their tenants – the Defendants have made the necessary improvements to bring the Rosedale property into full compliance, as evidenced by RIDOH inspections that resulted in the issuance of a Certificate of Conditional Lead-Safe Status by RIDOH on October 4, 2021.

47. However, as with the Dyer property, Defendants have not provided all of the documentation showing that they complied with RIDOH’s requirements to obtain proper certification and/or licensing to perform lead remediation or abatement, or show that a certified individual or firm with the proper licensing was hired to perform this work on the Rosedale property. These essential work practices ensure the integrity of the lead repair, as well the safety of individuals who may otherwise be exposed to lead during the repair process.

48. Moreover, even though Defendants have finally made the Rosedale property lead safe after a protracted period of noncompliance, they have failed to pay any penalties that accrued due to their significant lead hazard violations.

**COUNT I**  
**(Violation of State Lead Poisoning Prevention Laws)**

49. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 48, above, as if set forth in full.

50. Pursuant to R.I. Gen. Laws § 23-24.6-17 of the Rhode Island Lead Poisoning Prevention Act, property owners of multifamily rental units are required to remediate all lead hazards upon notification by RIDOH.
51. After the Defendants received the first NOV for the Dyer property, they had thirty (30) days to correct the lead hazards. They failed to do so and thus were non-compliant with regard to the Dyer property *for more than 6 years* (2,240 days). The Defendants received the first NOV for the Rosedale property and likewise failed to correct the lead hazards and remediate the unsafe levels of lead in the drinking water, in accordance with 216 R.I. Code R. § 50-15-3.16 and 17, in a timely manner. Therefore, they were non-compliant with regard to the Rosedale property for an extended period of time.<sup>2</sup>
52. Plaintiffs seek a declaration, pursuant to R.I. Gen. Laws § 9-30-1, that Defendants violated the Lead Poisoning Prevention Act, R.I. Gen. Laws § 23-24.6-1 *et seq.*, with regard to lead hazard violations that existed at the properties.

## COUNT II

### **(Violation of Rules and Regulations for Lead Poisoning Prevention)**

53. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 52, above, as if set forth in full.
54. Pursuant to 216 R.I. Code R. § 50-15-3.19.2, failure to hire appropriately licensed or certified lead professionals to conduct regulated activities, as well as failure of a person conducting any regulated activities to be appropriately licensed or certified, are acts of non-compliance that violate RIDOH lead poisoning prevention regulations.

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<sup>2</sup> In order to protect the identity of the poisoned child in the Rosedale property in particular, the number of days the Defendants remained non-compliant with regard to the Rosedale property is not provided herein.

55. As of July 30, 2021, Defendants have remediated the lead hazards in the Dyer and Rosedale properties. However, based upon Defendants' failure to provide all of the documentation showing who performed much of the remediation work, Plaintiffs allege that Defendants failed to contract a licensed lead renovation firm, become certified, or hire a licensed lead contractor to perform these lead hazard reductions.

56. Plaintiffs seek a declaration, pursuant to R.I. Gen. Laws § 9-30-1, that Defendants violated RIDOH regulations for their failure to conduct lead hazard remediation activities through an appropriately licensed or certified individual.

**COUNT III**  
**(Penalties for Violations)**

57. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 56 above, as if set forth in full.

58. Pursuant to R.I. Gen. Laws § 23-24.6-23(c)(1) (the Lead Poisoning Prevention Act), the Attorney General's Office has the power to initiate a civil cause of action and to impose "penalties and fines, as appropriate." Additionally, pursuant to R.I. Gen. Laws § 42-9.1-2(a)(5), the Attorney General's Office has the authority to "take all necessary and appropriate action, including but not limited to public education, legislative advocacy, and where authorized by law to institute formal legal action, to secure and insure compliance with the provisions of title[] 23," including the Lead Poisoning Prevention Act of Chapter 24.6, Title 23.

59. This Honorable Court may assess such penalties and fines up to \$5000 per day that each lead hazard violation existed in the Rosedale and Dyer properties. *See* R.I. Gen. Laws § 23-24.6-27; RIDOH Penalty Matrix at 216 R.I. Code R. § 50-15-3.19.5(C). The Court may assess additional penalties up to \$5000 per day for Defendants' failure to

ensure that those conducting any regulated activities on the properties were appropriately licensed or certified. *See 216 R.I. Code R. §§ 50-15-3.19.2 and 19.5(C).*

60. This Honorable Court should therefore assess penalties and fines up to that amount.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, Peter F. Neronha, in his capacity as the Attorney General for the State of Rhode Island, and Dr. Nicole Alexander-Scott, in her capacity as Director of RIDOH, hereby request that Judgement be entered in favor of the Plaintiffs and that they be granted the following relief:

- a. That this Honorable Court issue a declaratory judgment, pursuant to R.I. Gen. Laws § 9-30-1, that the Defendant violated the Lead Poisoning Prevention Act, R.I. Gen. Laws § 23-24.6-1 *et seq.*, and RIDOH regulations with regard to lead hazard violations at the properties;
- b. Assess penalties and fines as required by law; and
- c. Such other and further relief as this Honorable Court deems just and equitable in accordance with the facts of this case.

Respectfully submitted,

Plaintiffs,

STATE OF RHODE ISLAND;  
PETER F. NERONHA, in his  
capacity as Attorney General of the  
STATE OF RHODE ISLAND; and  
DR. NICOLE ALEXANDER-SCOTT,  
in her capacity as Director, RHODE  
ISLAND DEPARTMENT OF HEALTH

By:

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#### CERTIFICATION

I, the undersigned, do hereby certify that on this 21st day of October 2021, I electronically filed the within document through the electronic filing system. The document electronically filed is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I further certify that a copy has been sent via the email to:

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/s/ Keith Hoffmann