

**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. :

**REGENT PLACE, LLC and :
ROBERT RICCARDI :
Defendants. :**

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

A. PRELIMINARY STATEMENT

1. This matter arises as a result of Regent Place, LLC (“Regent Place”) and Robert Riccardi’s (hereinafter collectively “Defendants”) failure to comply with a lead notice of violation that has, by operation of law, become a final compliance order (“Compliance Order”) of the Rhode Island Department of Health (“RIDOH”). The Defendants own and/or operate a rental income property located at 51 Wealth Avenue, Apartment 2, in Providence, Rhode Island (“the property”). The RIDOH Compliance Order was issued after a child living in the property tested positive for an elevated blood lead level (“EBLL”) and a RIDOH inspection found the presence of lead in violation of state law (“lead hazards”) in the child’s home.¹

¹ To safeguard the child’s identity and protected health information this Complaint does not include the identity of the poisoned child or information that could enable an individual to surmise the identity of the poisoned child.

2. The Compliance Order became effective as a final agency order by operation of law following Defendants' failure to request an administrative hearing in response to a second notice of violation ("NOV") issued by RIDOH. *See* R.I. Gen. Laws § 23-24.6-23; 216 R.I. Code R. § 50-15-3.19.11.
3. The violations outlined in the NOV risk the health of the property's tenants, particularly children.
4. RIDOH is alerted by a certified lab when children test positive for lead poisoning during their routine pediatrician 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, slows growth and development, and causes behavioral problems that may extend into adulthood. Damage to a child's brain and nervous 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, and the *parens patriae* doctrine.

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 Regent Place is a Rhode Island corporation and an owner and/or operator of the property.
11. Defendant Robert Riccardi is listed as the Resident Agent for Regent Place. His address as the Resident Agent is the same as that listed for Regent Place's Principal Office: 225 Newman Avenue in East Providence, 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

15. The property is one of three units in a multi-family home. It was built in the year 1910.
16. Following a child's routine testing for lead poisoning by a health care provider, RIDOH received notice from a certified lab that a child who resided in the property had an elevated blood lead level.
17. In response to the child's lead poisoning, RIDOH conducted an inspection of the property.
18. The inspection found lead paint hazards in both bedrooms of Apartment 2, including a child's bedroom.

19. The inspection also found exterior lead hazards on the porch and trim, and on the siding of the dwelling.
20. At the time of the child lead poisoning at the property, the property was owned and/or operated by the Defendants.
21. This was not the first child lead poisoning at the property. Another child was lead poisoned at the property in approximately the last ten years. At the time of this prior lead poisoning, the property was owned and/or operated by 49-51 Wealth Avenue, LLC. Defendant Robert Riccardi was listed as the Registered Agent for 49-51 Wealth Avenue, LLC.
22. Ownership of the property was later transferred from 49-51 Wealth Avenue, LLC to Defendant Regent Place; the second child was lead poisoned thereafter.
23. After the second child's poisoning, and upon identifying lead hazards at the property, RIDOH issued a NOV to the Defendants. After Defendants failed to remediate the lead hazards, RIDOH issued a second NOV.
24. Both the first NOV and second NOV for the 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 (216 R.I. Code R. § 50-15-3); and the
 - c. Housing Maintenance and Occupancy Code (R.I. Gen. Laws § 45-24.3).
25. 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 lead hazard reductions to correct the violations found in the report and contact RIDOH when the violations had been corrected in order to schedule a clearance inspection; 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 or hire a Lead Renovation Firm, and request a variance to perform lead hazard control to correct the violation.
26. Within thirty (30) days of receipt of the second NOV, 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. They failed to do so.
- 27. To date, Defendants have failed to comply with the requirements of the above-mentioned NOVs, even as Defendants' tenants, if any, may have been exposed to serious lead hazards. This failure to comply constitutes a significant environmental and health hazard to any tenants of the property, as well as the general public.***

COUNT I
(Violation of State Lead Poisoning Prevention Laws)

28. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 27, above, as if set forth in full.
29. Pursuant to R.I. Gen. Laws § 23-24.6-17 of the Rhode Island Lead Poisoning Prevention Act, property owners of multi-family rental units are required to remediate all lead hazards upon notification by RIDOH.
30. After Defendants received the first NOV, they had thirty (30) days to correct the lead hazards. Defendants failed to do so, and thus have been non-compliant with regard to the property for more than one year as of the date of the filing of this Complaint.
31. *Wherefore*, Plaintiffs seek a declaration, pursuant to R.I. Gen. Laws § 9-30-1, that Defendants have violated the Lead Poisoning Prevention Act, R.I. Gen. Laws § 23-24.6-1 *et seq.*, with regard to lead hazard violations that exist at the property.

COUNT II
(Penalties for Violations)

32. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 31 above, as if set forth in full.
33. 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.

34. This Honorable Court may assess such penalties and fines up to \$5000 per day that the lead hazard violations have existed in the property. *See* R.I. Gen. Laws § 23-24.6-27; RIDOH Penalty Matrix at 216 R.I. Code R. § 50-15-3.19.5(C).
35. *Wherefore* this Honorable Court should therefore assess penalties and fines up to that amount.

**COUNT III
(Public Nuisance)**

36. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 35, above, as if set forth in full.
37. Pursuant to R.I. Gen. Laws § 23-24.6-23(d), following the issuance of a second NOV for failure to meet the applicable lead hazard reduction standards, “the unit may be considered abandoned and a public nuisance, which is a menace to public health.”
38. Additionally, pursuant to R.I. Gen. Laws § 10-1-1 *et seq.*, the Attorney General may bring an action in the name of the state to “abate the nuisance and to perpetually enjoin the person or persons maintaining the nuisance and any or all persons owning any legal or equitable interest in the place from further maintaining ... the nuisance either directly or indirectly.” Similarly, where, as here, the interests in the health and well-being of the People of the State of Rhode Island are implicated and there is harm and potential for further harm to the public interest such that this is a matter of concern to the general public, the Attorney General possesses *parens patriae* standing to commence legal action against the Defendants to stop their unlawful practices.
39. *Wherefore* this Honorable Court should therefore enjoin the nuisance at the property.

**COUNT IV
(Injunctive Relief)**

40. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 39, above, as if set forth in full.
41. Pursuant to R.I. Gen. Laws § 23-24.6-23(c)(1), the Attorney General’s Office has the power to initiate a civil action to compel compliance with the Lead Poisoning Prevention Act through injunctive relief.
42. Furthermore, pursuant to R.I. Gen. Laws § 10-1-3, when an alleged nuisance appears before the court, a temporary injunction may be issued “enjoining any and all respondents from further maintaining or permitting the nuisance[.]”
43. *Wherefore* this Honorable Court should therefore enjoin the nuisance at the property.

**COUNT V
(Receivership)**

44. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 43, above, as if set forth in full.
45. Pursuant to R.I. Gen. Laws § 23-24.6-23(d), following the issuance of a second NOV for failure to meet the applicable lead hazard reduction standards, “the unit may be considered abandoned and a public nuisance, which is a menace to public health,” and the Attorney General and RIDOH may “request the court to appoint a receiver for the property, the court in such instances may specifically authorize the receiver to apply for loans, grants and other forms of funding necessary to correct lead hazards and meet lead hazard mitigation standards, and to hold the property for any period of time that the funding source may require to assure that the purposes of the funding have been met.”

46. *Wherefore* if Defendants are unable or otherwise unwilling to assist in remediating the lead hazard violations at the property, this Honorable Court should appoint a receiver for the property.

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 the Defendants forthwith contract with a Lead Hazard Contractor licensed by RIDOH and correct any and all outstanding lead violations, making the property compliant with the applicable lead poisoning prevention laws;
- b. That the Defendants obtain documentation that the Lead Hazard Contractor has corrected any and all outstanding lead violations, making the property compliant with the applicable lead poisoning prevention laws;
- c. That the Defendants forthwith ensure that any tenants at the property are provided with, or compensated for, adequate housing accommodations during any period that they are unable to remain in their homes due to the remediation of the violations outlined above;
- d. That the Defendants forthwith ensure that any and all other housing code violations present at the property are repaired;
- e. Should Defendants be unable or otherwise unwilling to assist in obtaining the relief requested above, that this Honorable Court immediately upon such determination appoint a receiver for the property, and specifically authorize the receiver to apply

for loans, grants and other forms of funding necessary to correct lead hazards and meet lead hazard mitigation standards, and to hold the property for any period of time that the funding source may require to assure that the purposes of the funding have been met;

- f. That this Honorable Court issue a declaratory judgment pursuant to R.I. Gen. Laws § 9-30-1 that the Defendants have violated the Lead Poisoning Prevention Act, R.I. Gen. Laws § 23-24.6-1 *et seq.* with regard to lead hazard violations that exist at the property;
- g. That this Honorable Court assess penalties and fines as required by law; and
- h. Such other and further relief as this 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
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CERTIFICATION

I, the undersigned, do hereby certify that on this 5th day of November 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 email to:

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/s/ Keith Hoffmann