

2. The compliance order became effective as a final agency order by operation of law following Defendant's failure to request an administrative hearing in response to a second notice of violation 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 notice of violation risk the health of any tenants of the property, particularly children.
4. RIDOH is alerted by health care providers when children test positive for lead poisoning. 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 property owners remediate lead hazards.

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 arrange for the child's home to be inspected for lead hazards. If lead hazards are found, RIDOH will issue a notice of violation 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 notice of violation after the issuance of the first notice of violation. Should the property owner fail to comply with this second notice of violation within 30 days, the notice of violation 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. James McDonald is the Interim Director of RIDOH. RIDOH is authorized to pursue this action by various sections of the General Laws of Rhode Island cited herein.

10. Defendant Davian Sanchez is the owner and/or operator of the property.

C. JURISDICTION

11. 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).

12. Personal jurisdiction over the Defendant in this case is properly conferred in this Court based on the Defendant's presence within the State of Rhode Island.

13. Venue is properly placed in this Court pursuant to R.I. Gen. Laws § 9-4-3.

D. FACTS

14. The property is one of three units in a multi-family home.

15. It was built in the year 1892.

16. Defendant acquired and/or began to manage the property in 2013.

17. 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 the property had an elevated blood lead level.

18. In response to the child's lead poisoning, RIDOH caused an inspection of the property to be conducted.

19. The inspection found lead hazards in bedrooms, including a child's bedroom, kitchen, bathroom, living room, and hall of the property.

20. The inspection also found lead hazards in the shared stairway, as well as on the exterior door, porch, garage, fence, fire escape, siding, and trim of the dwelling, among other locations.

21. The soil surrounding the property was also found to contain a hazardous amount of lead.
22. At the time of the child lead poisoning at the property, the property was owned and/or operated by the Defendant.
23. Following the inspection, Defendant was given notice of the lead violations.
24. Both the first notice of violation and second notice of violation 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; and the
 - c. Housing Maintenance and Occupancy Code (R.I. Gen. Laws § 45-24.3).
25. Within fifteen (15) days of receipt of the first notice of violation, Defendant was ordered to submit to RIDOH:
 - a. Documentation that he contracted with or made reasonable efforts to contract with a Rhode Island Licensed Lead Hazard Reduction Contractor; or
 - b. A written request for an extension including the address of the property in violation, the reason for the request, and a plan and timeline of how the violations will be corrected.
26. Within thirty (30) days of receipt of the first notice of violation, Defendant was ordered to correct the lead violations through a Rhode Island Licensed Lead Hazard Reduction Contractor.
27. Defendant failed to correct the lead hazards and a second notice of violation was subsequently issued.

28. Within thirty (30) days of receipt of the second notice of violation, Defendant was ordered to correct the outstanding violations through a licensed lead contractor or request an administrative hearing to contest the issuance of the second notice of violation. Defendant failed to do so.

29. *To date, Defendant has failed to fully comply with the requirements of the above-mentioned notices of violation, even as Defendant's 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)

30. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 29, above, as if set forth in full.

31. 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.

32. After Defendant received the first notice of violation, he had thirty (30) days to correct the lead hazards. Defendant failed to do so, and thus has been non-compliant with regard to the property for more than one year as of the date of the filing of this Complaint.

33. *Wherefore*, Plaintiffs seek a declaration, pursuant to R.I. Gen. Laws § 9-30-1, that Defendant has 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)

34. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 33 above, as if set forth in full.
35. 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.
36. This Court may assess such penalties and fines up to \$5000 per day that 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).
37. *Wherefore*, this Court should therefore assess penalties and fines up to that amount.

COUNT III
(Public Nuisance)

38. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 37, above, as if set forth in full.
39. Pursuant to R.I. Gen. Laws § 23-24.6-23(d), following the issuance of a second notice of violation 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.”

40. 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 a substantial segment of the Rhode Island population, the Attorney General possesses *parens patriae* standing to commence legal action against the Defendant to stop his unlawful practices.

41. *Wherefore*, this Court should therefore enjoin the nuisance at the property.

**COUNT IV
(Injunctive Relief)**

42. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 41, above, as if set forth in full.

43. 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.

44. 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[.]”

45. *Wherefore*, this Court should therefore enjoin the nuisance at the property.

**COUNT V
(Receivership)**

46. Plaintiffs hereby reallege and incorporate by reference herein, the allegations contained in Paragraphs 1 through 45, above, as if set forth in full.

47. Pursuant to R.I. Gen. Laws § 23-24.6-23(d), following the issuance of a second notice of violation 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.”

48. *Wherefore*, if Defendant is unable or otherwise unwilling to assist in remediating the lead hazard violations at the property, this 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. James McDonald, in his capacity as Interim Director of RIDOH, hereby request that Judgement be entered in favor of the Plaintiffs and that they be granted the following relief:

- a. That Defendant 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 Defendant 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 Defendant 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 Defendant ensure that any and all other housing code violations present at the property are repaired;
- e. Should Defendant be unable or otherwise unwilling to assist in obtaining the relief requested above, that this Court 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 Court issue a declaratory judgment pursuant to R.I. Gen. Laws § 9-30-1 that Defendant has 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 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,

STATE OF RHODE ISLAND;
PETER F. NERONHA, in his
capacity as Attorney General of the
STATE OF RHODE ISLAND; and
DR. JAMES MCDONALD,
in his capacity as Interim Director, RHODE
ISLAND DEPARTMENT OF HEALTH,

Plaintiffs,

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