

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Plaintiff,)
)
 v.)
)
 PATRICIA GROVES, individually,)
)
 Defendant.)

No. 16-CH-
 2016CH08909
 CALENDAR/ROOM 15
 TIME 00:00
 Injunction

VERIFIED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney
 General of the State of Illinois, complains of the Defendant PATRICIA GROVES, individually,
 as follows:

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 CIRCUIT COURT OF COOK
 COUNTY, ILLINOIS
 CHANCERY DIV.
 CLERK

**COUNT I:
FAILURE TO MITIGATE LEAD CONTAMINATION**

1. This action is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois (“Plaintiff”), on her own motion and at the request of the Cook County Department of Public Health (“CCDPH”), pursuant to Section 12.2(g) of the Lead Poisoning Prevention Act (“Act”), 410 ILCS 45/12.2(g).
2. The Illinois Department of Public Health (“IDPH”) is an administrative agency of the State of Illinois, created by Section 2 of the Department of Public Health Act, 20 ILCS 2305/2 (2014), and is charged, *inter alia*, with the duty of enforcing the Lead Poisoning Prevention Act, 410 ILCS 45/1 *et seq.* (2014).
3. CCDPH is a health department approved by IDPH and is therefore a “delegate agency,” as that term is defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

4. At all times relevant to this Complaint, Ms. Groves has owned an apartment building located at 1817 S. Grove Ave., Berwyn, Cook County, Illinois (the “Building” or “Regulated Facility”).

5. On or about February 18, 2015, CCDPH received a report from IDPH of a child under the age of six (6) with an elevated blood lead level residing at the Regulated Facility.

6. On February 27, 2015, CCDPH performed a lead risk assessment of the Regulated Facility’s second-floor unit (“Apartment” or “Dwelling Unit”), where the child resided, and common front and rear enclosed staircases. As set forth in its March 27, 2015, Mitigation Notice and its report, CCDPH observed chipping paint on: (1) the walls surrounding the front enclosed staircase; (2) window components in the front-enclosed staircase; (3) window components in the Dwelling Unit’s living room; (3) window components in the Dwelling Unit’s first bedroom; (4) window components in the Dwelling Unit’s playroom; (5) window components in the Dwelling Unit’s bathroom; (6) the window sill in the Dwelling Unit’s bathroom; (7) interior door components in the Dwelling Unit’s bathroom; (8) window components in the Dwelling Unit’s second bedroom; (9) window components in the Dwelling Unit’s third bedroom; (10) the walls surrounding the rear-enclosed staircase; (11) stair treads and risers in the rear-enclosed staircase; (12) baluster components in the rear-enclosed staircase; (13) window components in the rear-enclosed staircase; and (14) the door jamb in the rear-enclosed staircase.

7. During the February 27, 2015 inspection, CCDPH took x-ray fluorescence (“XRF”) readings of the paint at the Regulated Facility to determine if the paint was a lead bearing substance.

8. The results of CCDPH’s XRF testing from its February 27, 2015 lead risk assessment at the Regulated Facility included the following readings:

Room	Component(s)	XRF Reading (mg/cm ²)
Front-enclosed staircase	Upper walls	5.7
Front-Enclosed Staircase	Lower walls	3.8
Living Room	Window well	4.7
Living Room	Window jamb	8.9
Living Room	Window parting bead	16.0
Playroom	Window jamb	24.0
Playroom	Window well	26.3
Bathroom	Interior door	1.4
Bathroom	Interior door casing	3.5
Bathroom	Window sill	2.4
Rear-Enclosed Staircase	Stair treads	13.4
Rear-Enclosed Staircase	Stair risers	7.1
Rear-Enclosed Staircase	Walls	15.5
Rear-Enclosed Staircase	Baluster cap	16.8
Rear-Enclosed Staircase	Baluster railing	13.7
Rear-Enclosed Staircase	Baluster newel post	18.3
Rear-Enclosed Staircase	Door jamb	14.1

9. Section 9 of the Act, 410 ILCS 45/9 (2014), provides, in pertinent part, as follows:

Procedures upon determination of lead hazard

- (1) If the inspection report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner that the owner is required to mitigate the lead hazard, and shall indicate the time period specified in this Section in which the owner must complete the mitigation. The notice shall include information describing mitigation activities which meet the requirements of this Act.

* * *

- (5) When a mitigation notice is issued for a dwelling unit inspected as a result of an elevated blood lead level in a pregnant woman or a child, or if the dwelling unit is occupied by a child under 6 years of age or a pregnant woman, the owner shall mitigate the hazard within 30 days of receiving the notice; otherwise, the owner shall complete the mitigation within 90 days.

* * *

- (7) The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any dwelling unit for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard as provided under this Section. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of this Act, which may include lead abatement if lead abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of this Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished.

10. Section 2 of the Act, 410 ILCS 45/2 (2014), provides the following definitions:

“Delegate agency” means a unit of local government or health department approved by the Department to carry out the provisions of this Act.

“Department” means the Department of Public Health.

“Dwelling unit” means an individual unit within a residential building used as living quarters for one household.

“Lead hazard” means a lead bearing substance that poses an immediate health hazard to humans.

“Lead bearing substance” means any item containing or coated with lead such that the lead content is more than six-hundredths of one percent (0.06%) lead by total weight; or any dust on surfaces or in furniture or other nonpermanent elements of the regulated facility; or any paint or other surface coating material containing more than five-tenths of one percent (0.5%) lead by total weight (calculated as lead metal) in the total non-volatile content of liquid paint; or lead-bearing substances containing greater than one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or rule; or more than 1 milligram per square centimeter in the dried film of paint or previously applied substance; or item or dust on item containing lead in excess of the amount specified in the rules authorized by this Act or a lower standard for lead content as may be established by federal law or rule. “Lead-bearing substance” does not include firearm ammunition or components as defined by the Firearm Owners Identification Card Act.

“Owner” means any person, who alone, jointly, or severally with others:

- (a) Has legal title to any regulated facility, with or without actual possession of the regulated facility, or
- (b) Has charge, care, or control of the regulated facility as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner.

“Regulated facility” means a residential building or child care facility.

“Residential building” means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures.

“Person” means any individual, partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent, or assign.

11. Section 845.205 of the Lead Poisoning Prevention Code, 77 Ill. Adm. Code 845.205, provides, in pertinent part, as follows:

Regulatory Limits of Lead

- a) The regulatory limit of lead in any lead bearing substance on an interior or exterior surface of a regulated facility shall be 0.5% lead by weight (calculated as lead metal) in the total non-volatile content of liquid paint, or ≥ 1.0 mg/cm² in the dried film of paint.

* * * *

12. Section 12.2(g) of the Act, 410 ILCS 45/12.2(g) (2014), provides, in pertinent part, as follows:

* * * *

- (g) The State's Attorney of the county in which the violation occurred or the Attorney General shall bring such actions in the name of the people of the State of Illinois and may, in addition to other remedies provided in this Act, bring action for an injunction to restrain such violation, impose civil penalties, and enjoin the operation of any such person or establishment.

13. Sample results listed in paragraph 8 and taken during CCDPH's February 27, 2015 initial lead risk assessment at the Dwelling unit and Regulated Facility confirmed the presence of paint containing more than one milligram per square centimeter of lead and the Regulated Facility therefore contained "lead bearing substances" as that term is defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

14. CCDPH determined that the lead bearing substances at the Dwelling Unit and Regulated Facility pose an immediate health hazard to humans and that the lead bearing substances at the Regulated Facility constituted a "lead hazard" as that term is defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

15. On March 27, 2015, CCDPH sent an “Official Notice to Correct Lead Hazards” (“March 27, 2015 Notice”) to Ms. Groves by certified mail.

16. The March 27, 2015 Notice informed Ms. Groves that on February 27, 2015, CCDPH conducted a lead investigation at the Dwelling Unit and Regulated Facility—the results of which confirmed the presence of lead bearing substances—and determined that certain lead bearing substances constituted lead hazards.

17. The March 27, 2015 Notice informed Ms. Groves that she was required to mitigate the lead hazards at the Dwelling Unit and Regulated Facility and instructed her to contact CCDPH within 30 days to conduct a clearance dust sampling and visual inspection.

18. On April 20, 2016, CCDPH inspected the Dwelling Unit and Regulated Facility and determined that Ms. Groves had failed to mitigate the lead hazards.

19. On May 6, 2016, CCDPH sent Ms. Groves a “Notice of Deficiency and Order to Mitigate” (“May 6, 2016 Order”) via certified and electronic mail that ordered her to: (1) have a licensed lead abatement contractor mitigate the lead hazards identified in the Regulated Facility; and (2) contact CCDPH on or before June 6, 2016 to conduct a clearance dust sampling and visual inspection.

20. Ms. Groves failed to contact CCDPH on or before June 6, 2016 to schedule a clearance dust sampling and visual inspection, as required by the May 6, 2016 Order. Additionally, as required by the May 6, 2016 Order, Ms. Groves failed to obtain a licensed lead abatement contractor to mitigate the lead hazards.

21. Ms. Groves, an individual and a natural person, is a “person,” as that term is defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

22. The Regulated Facility, an apartment building, is a “residential building” and, therefore, a “regulated facility” as those terms are defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

23. The Dwelling Unit, an individual second-floor unit within the Regulated Facility, is a “dwelling unit” as that term is defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

24. At all times relevant to this Complaint, Ms. Groves was the title holder of the Regulated Facility and therefore is an “owner” as that term is defined in Section 2 of the Act, 410 ILCS 45/2 (2014).

25. As the Owner of the Regulated Facility, Ms. Groves failed to mitigate the lead hazards in the Dwelling Unit and Regulated Facility pursuant to the May 6, 2016 Order.

26. By failing to mitigate the lead hazards in the Dwelling Unit and Regulated Facility, Ms. Groves violated Section 9 of the Act, 410 ILCS 45/9 (2014).

27. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter judgment in favor of Plaintiff and against the Defendant, PATRICIA GROVES:

1. Finding that Defendant Groves has violated Section 9 of the Act, 410 ILCS 45/9 (2014);

2. Ordering Defendant Groves to take all necessary actions to mitigate the lead hazards at the Regulated Facility consistent with the May 6, 2016 Order;

3. Ordering Defendant Groves to post notices at all entrances of the Regulated Facility specifying the lead hazards identified by CCDPH, as required by Section 9.4 of the Act, 410 ILCS 45/9.4 (2014);

4. Enjoin Defendant Groves from leasing or otherwise allowing occupancy of the Dwelling Unit until such time as CCDPH or IDPH issues a Certificate of Compliance for the Regulated Facility;

5. Ordering Defendant Groves to cease and desist from any further violations of Section 9 of the Act, 410 ILCS 45/9 (2014);

6. Assessing a civil penalty against Defendant Groves for each and every violation of the Act;

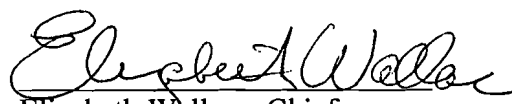
7. Taxing all costs in this action, including expert witness, consultant and attorney fees, against Defendant Groves; and

8. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By:



Elizabeth Wallace, Chief
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General of the State of Illinois,)
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Plaintiff,)
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v.)
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PATRICIA GROVES, individually,)
)
Defendant.)

No. 16-CH- 8409

VERIFICATION

I, LATRICE PORTER-THOMAS, do state as follows:

1. I am currently employed by the Cook County Department of Public Health (“CCDPH”) in Cook County, Illinois as a Sanitarian V.
2. I have been employed by CCDPH for the past 15 years with the last 12 years in my current position.
3. The duties and responsibilities of my current position include conducting lead hazard assessment inspections.
4. I have read the foregoing Verified Complaint for Injunctive and Other Relief (the “Complaint”), and am aware of the contents thereof.
5. The factual matters set forth in Paragraphs 4 through 8 and 13-20 of Count I of the Complaint are true in substance and in fact, to the best of my knowledge, information and belief.

6. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.


LATRICE PORTER-THOMAS
Cook County Department of Public Health

Dated: July 1, 2016
