

STATE OF VERMONT
SUPERIOR COURT
RUTLAND UNIT

STATE OF VERMONT,)	
)	
Plaintiff,)	CIVIL DIVISION
)	Docket No. _____
v.)	
)	
JOHN RUGGIERO,)	
23 BAXTER LLC, 35 ELM, LLC,)	
38 ELM, LLC, 13 FOREST LLC,)	
70 GROVE LLC, 6 HOPKINS LLC,)	
31 LINCOLN LLC, 35 LINCOLN LLC)	
16 MEADOW LLC, 41 PARK LLC)	
61 SCHOOL LLC, 48 STRONGS LLC;)	
and 51 WILLIAMS, LLC)	
)	
Defendants.)	

COMPLAINT

The Vermont Attorney General brings this action against John Ruggiero and his LLC companies who own residential rental properties in the City of Rutland, Vermont, for repeated violations of the Vermont lead law, 18 V.S.A., Chapter 38; and the Vermont Consumer Protection Act, 9 V.S.A., Chapter 63.

Parties, Jurisdiction and Venue

1. Defendant John Ruggiero (“Ruggiero”) is the owner of over 40 rental properties in Rutland, Vermont. He created individual LLCs for each of his rental properties.
2. Defendants 23 Baxter LLC, 35 Elm, LLC, 38 Elm, LLC, 13 Forest LLC, 70 Grove LLC, 6 Hopkins LLC, 31 Lincoln LLC, 35 Lincoln LLC, 16 Meadow LLC, 41 Park LLC, 61 School LLC, 48 Strongs LLC; and 51 Williams, LLC (hereafter “Defendant LLCs”) are all limited liability companies in Vermont created by Ruggiero to oversee and manage his

rental properties. Ruggiero is the sole member and manager of all the Defendant LLCs and has sole responsibility for their actions.

3. The Vermont Attorney General is authorized under the Vermont Consumer Protection Act, 9 V.S.A. § 2458, to sue to enforce the Act's prohibitions on unfair and deceptive acts and practices in commerce.

4. The Vermont Attorney General also has the right to appear in any civil action in which the State has an interest. 3 V.S.A. § 157. The Attorney General has an interest in ensuring that landlords comply with Vermont laws regarding habitability of housing.

Statutory Framework

5. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.

6. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.

7. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).

8. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

9. The EMP requirements also mandate that an owner of rental target housing file an annual compliance statement attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
10. Under the lead law, all paint in rental target housing is "presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based." 18 V.S.A. § 1760(a).
11. A violation of the lead law requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
12. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
13. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Factual Allegations

14. Defendant Ruggiero is the owner of over 40 rental properties in Rutland.
15. At least thirteen of those properties are at issue in this lawsuit (hereafter, collectively, "the Properties"):
 - a. 23 Baxter Street
 - b. 35 Elm Street
 - c. 38 Elm Street
 - d. 13 Forest Street
 - e. 70 Grove Street
 - f. 6 Hopkins Street
 - g. 31 Lincoln Ave
 - h. 35 Lincoln Ave

- i. 16 Meadow Street
- j. 41 Park Street
- k. 61 School Street
- l. 114 Strongs Ave
- m. 51 Williams Street.

16. The Properties were all constructed prior to 1978, and therefore, are pre-1978 “rental target housing” within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.

17. The Properties have been offered for rent and presently are offered for rent.

18. On February 24, 2021, the Vermont Department of Health (“VDH”) received a complaint about a child with an elevated blood lead level living in one of the units of 41 Park Street. VDH conducted an inspection of 41 Park Street and found deteriorated paint exceeding 1 square foot in the interior and exterior of 41 Park Street.

19. On March 25, 2022, VDH confirmed another child with an elevated blood lead level living in one of the units of 13 Forest Street, and VDH confirmed deteriorated paint exceeding 1 square foot in the interior and exterior of 13 Forest Street.

20. For all 13 Properties, VDH confirmed that they all either do not have current EMP statements on file and/or have deteriorated paint exceeding 1 square foot.

FIRST CAUSE OF ACTION

Lead Law: failure to perform essential maintenance practices

21. The State of Vermont incorporates and realleges paragraphs 1 through 19 above.

22. The lead law requires that EMPs specified in 18 V.S.A. § 1759 be performed at all rental target housing and that compliance statements attesting to EMP performance be filed with the VDH and the property owner’s insurance carrier on an annual basis. 18 V.S.A. § 1759. Copies of the compliance statements must also be given to all tenants at the property and to new tenants prior to entering a lease agreement. 18 V.S.A. § 1759(b)(3)-(4).

23. EMPs require that a property owner “[p]romptly and safely remove or stabilize lead-based paint if more than one square foot of deteriorated lead-based paint is found on any interior or exterior surface located within any area of the dwelling to which access by tenants is not restricted.” 18 V.S.A. § 1759(a)(3).

24. Defendants violated Vermont’s Lead Law, 18 V.S.A. Chapter 38, by:

- a. Failing to stabilize deteriorated paint at 41 Park Street, 13 Forest Street, and numerous other properties; and
- b. Failing to file EMP statements for all 13 Properties.

25. These violations are made worse given the extensive deteriorated paint conditions and the fact that two child tenants have lead poisoning at the Properties.

26. A violation of the EMP requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).

SECOND CAUSE OF ACTION
Consumer Protection Act: noncompliant rental housing

27. The State of Vermont incorporates and realleges paragraphs 1 through 20 above.

28. The Vermont Consumer Protection Act, 9 V.S.A., Chapter 63, prohibits unfair and deceptive acts and practices in commerce, which include the rental of, or offering for rent, housing that is noncompliant with the lead law.

29. By renting to tenants, and by offering for rent, the Properties when they were not in compliance with the lead law, Defendants engaged in unfair acts and practices in commerce in violation of the Consumer Protection Act, 9 V.S.A. § 2453(a).

30. These violations are made worse given the extensive paint deteriorated conditions and the fact that two child tenants have lead poisoning at the Properties.

31. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

RELIEF SOUGHT

WHEREFORE, based on the allegations set forth above, the State of Vermont respectfully requests that the Court award the following relief:

1. An Order finding that Defendants violated 18 V.S.A. § 1759 and that the violations are continuing.
2. An Order finding that Defendants violated 9 V.S.A. § 2453(a) and that the violations are continuing.
3. Civil Penalties of not more than \$10,000 for each day the Defendants violated the lead law.
4. Civil Penalties of not more than \$10,000 for each day the Defendants violated the Consumer Protection Act.
5. An Order requiring that Defendants hire, at their expense and with the approval of the Attorney General's Office, an independent contractor who is certified by the Department of Health to perform EMP work to conduct compliance inspections of the interior and exterior of the Properties and all other rental target housing properties owned by Defendants.
6. An Order requiring that Defendants bring the Properties and any other non-compliant properties identified by the independent inspection into compliance with the requirements of the lead law.
7. An Order requiring reimbursement to the State for the reasonable value of its services and its expenses in investigating and prosecuting this action.

8. Such other relief as the Court may deem just and appropriate.

DATED at Montpelier, Vermont this 5th day of April 2022.

Respectfully submitted,

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL



By:

Justin Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov