

NEW HAVEN LEGAL ASSISTANCE ASSOCIATION, INC.

426 STATE STREET  
NEW HAVEN, CONNECTICUT 06510  
TELEPHONE: (203) 946-4811  
FAX: (203) 498-9271

October 19, 2018

Dr. Byron Kennedy, Director  
New Haven Department of Public Health  
54 Meadow Street, 9<sup>th</sup> Floor  
New Haven, CT 06519

Dr. Karen Dubois-Walton, Director  
New Haven Housing Authority  
360 Orange Street  
New Haven, CT 06510

Re: Childhood Lead Poisoning in Section 8 Apartment: 264 Orchard Street, First Floor

Dear Dr. Kennedy and Dr. Dubois-Walton,

We write on behalf of Chyrise Holmes and her two and a half year old daughter Riley Newland to request your immediate action to protect this child from lead hazards in her Section 8 rental unit at 264 Orchard Street, First Floor, which have caused lead blood poisoning.

In August, Riley was found to have an elevated blood lead level of 9 µg/dl, a level associated with lifelong cognitive and neurological damage. The City of New Haven's Health Department was notified of the child's lead poisoning by the State of Connecticut in August. The Health Department conducted an inspection of the apartment on September 10, 2018 which found serious lead hazards from chipping and flaking lead paint throughout the interior, front door, and front porch. The Health Department issued an order to the landlord on September 12 to abate these lead hazards. See attached order. The Health Department order mandates that the landlord post notices of the lead hazards in the common areas within two days, submit a lead abatement plan within five days, commence work within seven days, and complete abatement of the lead hazards within thirty days.

To our knowledge, now, more than thirty days after the issuance of the Health Department order, the landlord has taken no action to abate the lead, not even posting the notices in common areas nor submitting a lead abatement plan. The undersigned counsel contacted the Health Department through its counsel on September 28, requesting proper attention to abate the lead hazards within thirty days as set forth in the order. The Health Department did not respond to the communication by counsel and has allowed the child to remain in the hazardous unit well beyond the time frame mandated in the order. At this point, New Haven General Ordinances §§ 16-66(e) and (g) require that the Health Department take over abatement of the premises, relocate the child to lead safe temporary housing, and recoup costs incurred through a lien

against the property. As the parties are aware, New Haven Superior courts have consistently provided such relief in similar cases. See Jacob Guaman by and through his father Walter Guaman vs. City of New Haven, NHH-CV-17-5040434-S (Judge Sheila Ozalis) (2018); Abdullah Soliman v. Maajid Muhammad, NHH-CV-18-5002790-S (Judge Anthony Avallone) (2018); Elijah Hall by and through is Mother Jennifer Williams, NHH-CV-18-5003008 (Judge Anthony Avallone) (2018); and Trey Jermar Mims by his mother Latesha Jones, NHH-CV-18-5003044-S (Judge Walter Spader) (2018).


Ms. Holmes has also sought and not received protections from the New Haven Housing Authority to which she is entitled as a Section 8 voucher participant. In the first place, the Housing Authority should have known of the lead hazards had it conducted an adequate housing conditions inspection on the regular biennial schedule required under federal law. Such inspection would have found chipping and flaking paint, ordered the paint to be rendered intact, and referred the matter to the Health Department given that the unit was built before 1978 and had a child under 6 living in the premises.

Furthermore, Ms. Holmes and the undersigned counsel have repeatedly contacted the Housing Authority since the end of September by email, phone call, voicemail, and in person for proper attention to this matter, with no response. The Housing Authority is overdue to take action to require the landlord to abate the lead hazards, including coordinating communication with the landlord and the Health Department and setting a firm deadline by which the landlord must abate the unit or be terminated from the federal subsidy program.

At this point, Ms. Holmes is entitled, under federal Section 8 law and Housing Authority policy, to an emergency Section 8 relocation, with the assistance of the Housing Authority to locate an alternative unit which is screened for lead hazards prior to her move in. This Housing Authority action is required in addition to the Health Department's obligation, as explained above, to take over the abatement of the premises and relocate the family to a hotel until the apartment is properly abated or the Ms. Holmes moves to a new lead safe Section 8 unit. Moreover, if Ms. Holmes moves to a new Section 8 unit before the first floor apartment at 264 Orchard Street is abated, then the Health Department must ensure that the landlord not re-rent the premises to any family until the mandated lead abatement is complete.

In light of recent litigation between tenants and the Health Department and ongoing discussions between New Haven Legal Assistance Association and the City regarding needed improvements in Health Department lead program policy and protocol, we hope that Ms. Holmes can obtain the above requested relief immediately without a lawsuit for injunctive relief.

Sincerely,



Amy Marx  
Attorney-at-Law

cc: Attorney John Rose, Corporation Counsel  
Attorney Roderick Williams, Deputy Corporate Counsel





TONI N. HARP  
MAYOR

**CITY OF NEW HAVEN**  
**DEPARTMENT OF HEALTH**  
**BUREAU OF ENVIRONMENTAL HEALTH**  
54 Meadow Street - 9<sup>TH</sup> Floor • New Haven • Connecticut 06519  
Phone 203-946-8174 • Fax 203-946-6509

New Haven



2008

DR. BYRON KENNEDY, MD, PhD, MPH  
DIRECTOR OF HEALTH

September 12, 2018

264-266 Orchard Street LLC  
Nechama Langenauer, Manager  
P.O. BOX 203832  
New Haven, CT 06520

**CERTIFIED MAIL**  
**7008 2810 0000 4629 9219**

**RE: 264 Orchard Street, 1F, New Haven, CT**

Dear Ms. Langenauer:

On September 10, 2018, an inspection of the above referenced premises was made by Ms. Glenda M. Buenaventura of this department.

Said inspection revealed the presence of toxic levels of lead in paint (intact and defective), i.e., paint containing more than 0.50 percent lead by dry weight as measured by atomic absorption spectrophotometer or lead at or above 1.0 milligrams per square centimeter of surface, including the dried paint film, as measured on site by x-ray fluorescence spectrum analyzer according to performance characteristic sheets, in the following locations:

**1F Living Room Side A & B**

- |                        |     |
|------------------------|-----|
| 1. Wall, Side A, Beige | 1.7 |
| 2. Wall, Side B, Beige | 2.2 |
| 3. Wall, Side D, Beige | 1.1 |

**1F Dining Room Side B**

- |                        |     |
|------------------------|-----|
| 4. Wall, Side B, Beige | 1.7 |
| 5. Wall, Side C, Beige | 1.9 |
| 6. Wall, Side D, Beige | 1.9 |

**1F Room Side C**

- |                                       |     |
|---------------------------------------|-----|
| 7. Ceiling, White                     | 3.8 |
| 8. Wall, Side A, White                | 3.5 |
| 9. Wall, Side B, White                | 3.8 |
| 10. Wall, Side C, White               | 3.3 |
| 11. Wall, Side D, White               | 3.9 |
| 12. Baseboard, White                  | 2.5 |
| 13. Window Casing, White              | 2.5 |
| 14. Window Sill, White                | 1.8 |
| 15. Entry Door Casing, Side A, White  | 2.2 |
| 16. Entry Door Jamb, Side A, White    | 1.6 |
| 17. Closet Door Casing, Side A, White | 3.0 |

**1F Room Side C (continued)**

18. Closet Door Jamb, Side A, White	2.8
19. Closet Door Stop, Side A, White	2.0
20. Closet Wall, White	1.8
21. Closet Shelf Support, White	48.0
22. Closet Baseboard, White	4.6
23. Closet Inner Door Casing, White	4.2

**1F Room Side C & D**

24. Ceiling, White	4.3
25. Wall, Side A, Beige	4.2
26. Wall, Side B, Beige	4.6
27. Wall, Side C, Beige	6.2
28. Wall, Side D, Beige	5.9
29. Baseboard, White	1.9
30. Window Casing, White	2.2
31. Window Sill, White	2.2
32. Entry Door Casing, Side A, White	2.3
33. Entry Door Jamb, Side A, White	2.9
34. Entry Door Stop, Side A, White	2.5
35. Closet Door Casing, Side A, White	2.7
36. Closet Door Jamb, Side A, White	3.2
37. Closet Door Stop, Side A, White	3.2
38. Closet Wall, White	1.0
39. Closet Shelf Support, White	3.4
40. Closet Baseboard, White	2.2
41. Closet Inner Door Casing, White	2.8

**1F Bathroom Side D**

42. Window Casing, White	2.0
43. Window Sill, White	2.5
44. Entry Door Casing, Side B, White	2.4
45. Entry Door Jamb, Side B, White	3.1
46. Entry Door Stop, Side B, White	2.5
47. Closet Door Casing, Side C, White	2.5
48. Closet Door Jamb, Side C, White	2.0
49. Closet Door Stop, Side C, White	2.5
50. Closet Wall, White	2.8
51. Closet Shelf Support, White	3.1
52. Closet Inner Door Casing, White	1.0
53. Closet Kick Plate, White	2.5

**1F Room Side D**

54. Wall, Side A, Beige	4.6
55. Wall, Side B, Beige	5.2
56. Wall, Side C, Beige	5.2
57. Wall, Side D, Beige	4.5
58. Baseboard, White	2.6
59. Window Casing, White	2.5
60. Window Sill, White	4.3
61. Entry Door Casing, Side A, White	3.1

**1F Room Side D (continued)**

62. Entry Door Jamb, Side A, White	2.7
63. Entry Door Casing, Side C, White	1.6
64. Entry Door Jamb, Side C, White	2.8
65. Entry Door Stop, Side C, White	2.5
66. Closet Door Casing, Side A, White	2.9
67. Closet Door Jamb, Side A, White	2.9
68. Closet Door Stop, Side A, White	2.9
69. Closet Wall, White	1.0
70. Closet Shelf Support, White	3.3
71. Closet Inner Door Casing, White	3.0
72. Closet Baseboard, White	3.9

**1F Bedroom & Bathroom Hallway**

73. Ceiling, White	
74. Wall, Side A, Beige	2.8
75. Wall, Side B, Beige	2.8
76. Wall, Side C, Beige	2.9
77. Wall, Side D, Beige	3.1
78. Baseboard, White	3.6
79. Closet Door Casing, Side D, White	1.9
80. Closet Door Jamb, Side D, White	2.7
81. Closet Door Stop, Side D, White	2.0
82. Closet Shelf Support, White	2.6
83. Closet Baseboard, White	1.5
84. Closet Inner Door Casing, White	4.5
85. Door Casing, White	2.5
	3.1

**1F Rear Landing**

86. Ceiling, Yellow	
87. Wall, Side A, Yellow	6.6
88. Wall, Side B, Yellow	6.4
89. Wall, Side C, Yellow	7.5
90. Wall, Side D, Yellow	7.3
	6.8

**1F-2F Rear Stairwell**

91. Ceiling, Yellow	
92. Wall, Side A, Yellow	10.5
93. Wall, Side B, Yellow	3.9
94. Wall, Side C, Yellow	4.7
95. Wall, Side D, Yellow	5.4
	4.8

**2F Rear Landing Side B& C**

96. Ceiling, Yellow	
97. Wall, Side A, Yellow	3.4
98. Wall, Side B, Yellow	4.4
99. Wall, Side C, Yellow	5.7
100. Wall, Side D, Yellow	5.6
	5.4



**1F Front Vestibule**

101. Ceiling, Beige	3.3
102. Wall, Side A, Beige	3.3
103. Wall, Side B, Beige	3.5
104. Wall, Side C, Beige	3.2
105. Wall, Side D, Beige	4.2
106. Entry Door Stop, Side A, Brown	20.4
107. Closet Wall, Beige	4.2

**Exterior Side A**

108. Porch Floor, Brown	1.6
109. Door Stop (to 266), Brown	22.3
110. Threshold (to 266), Brown	1.1
111. Door (to 264), Brown	19.4
112. Threshold (to 264), Brown	1.3

**Exterior Side C**

113. Door Casing, Brown	14.8
114. Door, Brown	16.4
115. Door Stop, Brown	18.5

Said inspection also revealed the presence of cracked, chipped, blistered, flaking, loose or peeling paint (non-lead) in the following locations:

**1F Living Room Side A & B**

1. Ceiling, White	0.2
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**1F Room Side D**

2. Ceiling, White	0.1
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**1F Front Vestibule**

3. Closet Ceiling, White	-0.3
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The Director of Health has determined that the presence of such lead-based paint and chipped and flaking paint constitutes health hazards. Since there are one or more children with an elevated blood lead level residing on the premises, the aforementioned conditions constitute grounds for issuance of this Order pursuant to General Statutes 19a-111 and 19a-111-2 (c) of the Public Health Code and are a violation of Chapter 16, Article III of the New Haven Code of Ordinances, Section 16-63, Maintenance; Section 16-64, Hazardous Conditions, Subsections 1, 2, and 3.

As owner/agent-manager of the above referenced premises you are hereby **ordered** to remedy these conditions. You must commence within seven (7) days from receipt of this letter and fully comply with the provisions of the Lead Paint code of the City of New Haven within **thirty (30) days**. A re-inspection will be made at that time.

You are additionally required to submit to Glenda Buenaventura a written lead abatement plan **within five (5) days** from receipt of this letter. The abatement work is not to begin until an abatement plan written by you has been reviewed and approved by this department. This plan shall describe repair work necessary prior to abatement, the methods to be utilized to abate all areas requiring abatement, occupant protection, work-site containment, clean up procedures, and a waste disposal plan. An abbreviated version of an abatement plan has been provided as a guide.

Notices of toxic levels of lead must be posted by you at each entrance to the dwelling unit or common area if affected **within two (2) working days** from receipt of this letter. The notice entitled "Warning Notice Toxic Lead Levels" included with this letter is a State Department of Public Health form that may be used for this purpose. The notices are not to be removed until the dwelling unit reaches compliance with this letter.

**The above stated violations must be corrected as follows:**

All holes and cracks in walls and/or ceiling must be repaired in such a manner as to create a smooth, durable, non-broken surface.

All chipped and flaking paint, where ever it exists, must be thoroughly scraped and removed.

All doors, door jambs (to include entire door system), windows (to include sills, sashes, casings, and other parts of system), baseboards, walls, etc. which contain a lead hazard must be stripped to the base surface, and all chipped and flaking paint removed to the base surface.

In lieu of removal of paint, all violations may be covered with an approved, durable, non-lead material so as to make the area inaccessible to children.

The sample locations reported beginning from the first page of this letter are indicative of the lead content of similar painted surfaces found within each room or site, i.e., they are representative samples. All such surfaces painted with a lead-based paint are to be properly abated or encapsulated. Repainting a surface with a non-lead paint without the complete removal of existing lead-based paint shall not be considered satisfactory compliance with the law. *The methods used in eliminating the cited health hazards must be approved by this office prior to commencement of work. Upon removal of this hazardous paint and prior to repainting, this office must be notified and shall then verify complete removal. As of 6 January 1996, any abatement work contracted by you must be done by a licensed lead abatement contractor.*

This order is made pursuant to the authority vested in the Director of Health by Section 19a-200 of the Connecticut General Statutes and Section 16-64 of the New Haven Code of Ordinances. Compliance with these orders is the ultimate responsibility of the owner/agent -manager and must not be delegated to the occupant-tenant.

Any children who occupy the apartment in question are to be excluded from the work-site/apartment while the lead paint abatement efforts are being performed and are not to re-enter the site until all paint chips, dust, and debris have been completely and safely cleaned from the area. In addition, all surfaces (ceilings, walls, floors, moldings, etc.) are to be thoroughly and completely washed with a high-phosphate solution. This is also the responsibility of the owner-agent. It is imperative that the health of the child not be further jeopardized by allowing access to lead paint chips, lead containing dust, and/or lead paint fumes.

Failure to comply with the above stated orders will subject you to prosecution as provided in the Connecticut General Statutes and/or city of New Haven Code of Ordinances.

**No dwelling unit which is in violation of Article III, entitled "Lead Paint," shall be re-rented to a new tenant until repairs acceptable to the Director of Health have been made in compliance with the provisions of said article.**

"YOUR HEALTH IS OUR COMMUNITY'S WEALTH"



The Federal Residential Lead-Based Paint Hazard Reduction Act, 42 U.S.C. 485d, requires sellers and landlords of most residential housing units built before 1978 to disclose all available records and reports concerning lead-based paint and/or lead-based paint hazards, *including the test results contained in this notice*, to purchasers and tenants at the time of sale or lease or upon lease renewal. This disclosure must occur even if hazard reduction or abatement has been completed. Failure to disclose these test results is a violation of the United States Department of Housing and Urban Development and the United States Environmental Protection Agency regulations at 24 CFR part 35 and 40 CFR Part 745 and can result in a fine of up to \$11,000 per violation. To find out more information about our obligations under federal lead-based paint requirements call 1-800-424-LEAD (5323).

**RIGHT OF APPEAL:** Pursuant to Connecticut General Statutes section 19a-229 as amended from time to time, any person aggrieved by an order issued by the city's health director may appeal to the Commissioner of Public Health not later than three (3) business days after the date of such person's receipt of such order. The commissioner shall thereupon immediately notify the health director, and examine into the merits of such case, the commissioner may vacate, modify or affirm such challenged order.

There are two ways to appeal this order; both methods require action **not later than three business days after you receive the Order.**

- (1) You may appeal the decision by delivering your written appeal to the Department no later than three (3) business days after you receive the Order. You may deliver it to the Department either in person or by facsimile. The Department's address and facsimile number are:

**Department of Public Health  
Public Health Hearing Office  
410 Capitol Avenue  
Hartford, CT  
Facsimile: (860) 509-7553**

If you choose this method of appeal, you need to do nothing more to perfect your appeal, unless instructed otherwise by the Department.

- (2) You may also appeal the Order by *calling the Department not later than three business days after receipt of the Order* at one of the following numbers: (860) 509-7648 or (888) 891- 9177. If you call on a weekend or after business hours, it is sufficient to leave a message with your name, number and a description of the Order you are appealing.

If you appeal the Order by calling one of the telephone numbers listed above, *the telephone call must be followed up with a written notice of appeal that must be received by the Department within ten days of the telephonic notice.*

**PLEASE NOTE:** It is *not* sufficient that the written notification be postmarked within ten days. It must be *received by the Department within ten days*. Delays caused by the Postal Service will not excuse failure to comply with this requirement.

The written notice of appeal following the telephonic notice may be delivered to the Department in person, by facsimile, or by first class or certified mail. The Department address and facsimile number are provided above. If you choose to send the written notice of appeal by first class mail or certified mail, please use the addresses provided below.



**First Class Mail:** Send written appeals by first class mail to the following address:

**Department of Public Health  
Public Health Hearing Office  
410 Capitol Avenue, MS 13 PHO  
P.O. Box 340308  
Hartford, CT 06134-0308**

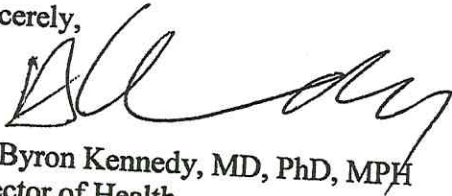
**Certified Mail:** Send written appeals by certified mail to the following address:

**Department of Public Health  
Public Health Hearing Office  
410 Capitol Avenue, MS 13 PHO  
Hartford, CT 06106**

Telephonic communication of a notice of appeal is satisfactory as an initial notice provided written communication of the appeal is received within ten days of the oral notice.

Please direct any inquiries to Glenda Buenaventura at (203) 946-7373.

Sincerely,



Dr. Byron Kennedy, MD, PhD, MPH  
Director of Health

BK: gmb

cc: City Town Clerk